

**ARMS PROCUREMENT COMMISSION**

*Transparency, Accountability and the Rule of Law*

**PUBLIC HEARINGS**

**PHASE 2**

**DATE : 9 MARCH 2015**

**(PAGE 9213 - 9380)**

9 MARCH 2015

PHASE 2

**HEARING ON 9 MARCH 2015**

CHAIRPERSON: Okay. Good morning everybody. Advocate Sibeko, I see it is 10 to 10 and I thought, we agreed that we will start at nine.

ADV SIBEKO: Good morning, Chair, Commissioner Musi, the record  
5 will show that I was here at [indistinct] and we, we, so was the witness. The team from DOD was noted here at nine [indistinct]. There were quite a few people here, at nine o'clock. We were waiting to get started.

CHAIRPERSON: Ja. But, then, you have not explained to me, why we start at only 10 to 10, if everybody was here at nine?

10 ADV SIBEKO: I am not quite certain, Chair. I, I do know that Mr Baloyi was here at about 20 past nine, to find out if we could start and I said, we were then waiting. We could start. I am not quite certain why we did not start at the time we were supposed to start.

CHAIRPERSON: Okay. Thank you.

15 **RICHARD MICHAEL MOBERLEY YOUNG**: (s.u.o.)

ADV SIBEKO: Thank you, Chair. Before the witness continues with his evidence, I need to place a few comments on the record. Shortly after the adjournment on Friday, my colleague, Ms Sello, approached the legal teams, representing, amongst others, the DOD and other  
20 parties, who have an interest in the matter and advised them that the team was still finalising copying the documents that we intend to provide on, in giving the testimony of Dr Young.

The further undertaking that was made was that the rest of the bundles would be scanned and placed on the Commission's website.  
25 So they can have access to the documents, we intend to rely on that we

9 MARCH 2015

PHASE 2

lead Dr Young, even before they come through today, in order to enable them, to be able to follow the statement, with the documents referred to.

I was telephoned yesterday evening, at about eight o'clock, by Ms Nhlalolo, yes, who advised me that during the course of opening the documents and because of the volume involved, the paper that had to go through the machines, both the photocopiers of the machine broke down, as well as the scanner. So, that exercise was not completed and we could not live up to the undertaking that we had made, to the various teams on Friday afternoon.

10 So, it, I would imagine that would have placed them in the position that they were not able to have access to the rest of the bundles of document that we intend to provide them. I thought I should just bring that to the attention of the Commissioners.

Having done that, Dr Young, if I may turn to you, when we adjourned, or shortly before we adjourned on Friday, we were, you were giving evidence, in respect of the ADS's best and final offer that resulted, or elicited a response from the Department of Defence. That you were in the process of giving evidence, in relation to annexure RMY 30, which appears at file three, of the bundle of documents. At the time we adjourned, you had just finished dealing with the issue of the IMS. Do you recall that?

DR YOUNG: Yes. I recall that.

ADV SIBEKO: And when we adjourned, you were about to start dealing with the system, management system of the combat suite.

25 Would you like to take it from there?

9 MARCH 2015

PHASE 2

DR YOUNG: Yes. Okay. I shall do so. Also just to put on record, I do not have, I only have my digital documents. I do not have the paper documents, with the evidence bundles in front of me. Okay. Where we left off, sorry, just wait a minute.

5 ADV SIBEKO: Do you have a copy of your statement?

DR YOUNG: I have my own copy of the statement and I have my digital copy, copies of the evidence documents in front of me.

ADV SIBEKO: You, you will notice that, the aspect you are dealing with appears as from page, paragraph 225 of your statement.

10 DR YOUNG: Yes. I, I am aware of it. I am just putting it on the record that I do not have either a Commission witness statement or evidence bundle. So, I am working off my own witness statement and I am working off my digital copies of my evidence documents. It is just for the record. I am not making any point of it.

15 ADV SIBEKO: You can continue then, with your evidence.

DR YOUNG: Okay. We were at paragraph 13, which is the information management system. Now that I come to think of it, I do not think that we quite finished the whole thing, because we, I do not think I addressed the IMS study. But, be that as it may, just to, so that there is  
20 a, a proper, rather have an overlap than a gap. Item 13 on this letter addresses the information management system and it is a particularly important point.

ADV SIBEKO: At, Commissioners, the annexure we are dealing with, appears at page 970 of the bundle of documents. It is file three. The  
25 paragraph number we are dealing with, the information management

9 MARCH 2015

PHASE 2

system that the witness is referring to is at page 970 of that. You may proceed, Dr Young.

DR YOUNG: Okay. I have, the paragraph 13, covering the IMS says that:

5       *“The offer of 7<sup>th</sup> April had an IMS cost at R47 million and included a fifth system and mistake acknowledged by yourselves. Thus the offer actually was a total of R42.860 million. There is no rational explanation for the current price of R77.15 million, an increase of 80 per cent, within a two month period. The current price is totally unacceptable.”*

10       What I would like to say is this, when I wanted to address the IMS, the best and final offer, which is just before this, in my witness statement, I was, my our documents were pointing at the incorrect document, being the MDS best and final offer, rather than the IMS one. I did say that it was a discovered document and indeed, it is, it is there. Although I  
15       stated the price, that the IMS best and final offer had, just for the record, the discovered document has an index DT 1-0429. We might come to it again, but it, but it, this price that we are talking about here, of R42 million, basically is either identical or, or the same as that price. So, that explains the, my emphasis on the, on the difference in price, between  
20       the R42.8 million and the R47 million. If I, If I may say, myself, it is indeed unacceptable, just from the simple point of view that it is indeed, a mistake. That R47 million actually comes out of a, an offer that we submitted on the 22<sup>nd</sup> of December, in response to a request for offer, I think, it was the, from ADS on the 15<sup>th</sup>. So, for whatever reason,  
25       whether it was inadvertent or not, the same prices were still in, despite

9 MARCH 2015

PHASE 2

them requesting a best and final offer and us giving us, giving them a price. For whatever reason, I do not know, but it is effectively a fundamental mistake. Because, of course, it exacerbates this whole issue of this, this very substantial price increases, which eventually led  
5 to the deselection of our IMS.

ADV SIBEKO: You then deal with the IMS study, at paragraph 14. What does that relate to?

DR YOUNG: Yes. Once ADS and Thomson had started viewing, you know, for want of a better word, the IMS in a negative light, regarding  
10 risk, I am talking about here, as we talked about on Friday, commercial risk or, or business risk, there was obviously, interactions going on with the project team and probably the GFC about a mechanism for addressing that risk. Although I was aware of something at the time, nothing, nothing was, there, nothing was address to me. I was not  
15 engaged on this at all. But, what is clear is that an IMS study had been proposed, by somebody and the price put to it. In fact, so, obviously, the price being put and I will tell you, it was a price of R12 million, because it will come, come to that annexed. But, what this responds to, to ADS's, it is that what it says:

20 *"This price is far too high for the envisaged work to be undertaken. It is our considered opinion that this item should cost less than R10 million."*

You know, if I may say so myself, as an expert, I would totally agree with that statement. In fact, one could divide it by half and it still would have  
25 been sufficient.

9 MARCH 2015

PHASE 2

**ADV SIBEKO**: What does this IMS study relate to, in particular?

**DR YOUNG**: I am a little bit more aware of it, having read the documents, you know, in my preparation for my various legal actions, including this one. But, there seems to be a, they were going to get an  
5 independent expert. I do not know whether the, I am aware of a particular name or entity, but a company or, or an individual, but completely third party, having nothing to do with this. My guess was, probably not even a South African party, because there are not too many experts in, in this particular field in this country. Then, work  
10 together with the GFC and ADS's experts, system engineer experts, as well as ourselves. That is somewhere in the documents, I do not know even where they are discovered. I am probably sure they are discovered. I do not know where they are discovered, or whether it is a produced document. There is indeed a, a kind of a time line that depicts  
15 the time schedule, over which this IMS study would be, would be undertaken. So, obviously, it was a, it was a fairly well considered proposal, other than, of course, the price.

**ADV SIBEKO**: Thank you. Now, before we go to paragraph 226 of your statement, where you introduce the risk premium that was attached  
20 to the price of the C Square I Square Systems, IMS, is there any point you need to deal with, in this document, RMY 39?

**DR YOUNG**: Yes. Although it does not necessarily, directly involve the, the IMS. We have got the document in front of us and it certainly is relevant to both ADS's best and final offer and, which we are coming to,  
25 unfortunately, next, as well as the project team's response thereto. So, I

9 MARCH 2015

PHASE 2

think, it is a, it is a practical approach to address it right now, while the document is open in front of us.

ADV SIBEKO: Can you proceed to do that?

DR YOUNG: Okay. The next point after 14 is the system  
5 management system. Of course, that is not just that I want to address that, the SMS and the other points that I come to, are individual self standing aspects of my evidence, which I address in more, far more substantial detail, later. So, it certainly is appropriate to, to address it now, as a kind of reference point, or point of departure. That being said,  
10 talking about the system management system and it also goes to show this strange pricing methodology that I mentioned on, on Friday, as kind of being, I think, all over the place, but mainly upwards. Anyway, this response to, from the JPT, joint project team, says:

*“On the 16<sup>th</sup> of April 1999, ADS offered the SMS at R29.647 million.  
15 In the scope of supply of this offer, there are four digital video recorders, listed in the scope of supply. In the current offer, the SMS price is listed at R30.756 million and the dvr’s are listed at cv, which means customer furnished equipment, which comes free. The current offer is unacceptable. Kindly offer the same price and scope of supply of 16  
20 April 1999. Kindly also clarify the remark that there is no.”*

And that particular, the rest of that phrase is being redacted unlawfully and then I cannot make out what that is. Now, if, at this juncture, if, if I may say, I cannot quite remember what he have traversed so far, but, so just to put it into the context is this ADS offer of the, the SMS was a  
25 competitive offer with our own. We were put to the post, only after there

9 MARCH 2015

PHASE 2

was a 12.5 per cent mark up added to, to our price. At that stage, we just, just were underneath the, sorry, we were slightly, slightly over at the ADS's price. I have not analysed it recently anyway, in terms of this increase in price. But, it just goes to show that after there is competitive  
5 bid prices do not still seem to stay the same.

ADV SIBEKO: Now, if I may then direct your attention to what were the subject matter that you are introducing, that is the price with the risk premium that was attached to it.

DR YOUNG: No. If you do not mind, there is still more, as I said,  
10 there was not just the SMS. There is a whole bunch of relevant aspects. I have highlighted them in my digital version. But, you will be able to see that there are blocks. They were red blocks. They are now probably black blocks around various other points that are very important and relevant to address, as at least an introduction where, at  
15 this point.

ADV SIBEKO: Can you just take us through those points, quickly?

DR YOUNG: Okay. This is a brief one. We have talked about the combat management system before. This is addressing point 18 and there is something that does not mean a lot to me, but it is certainly  
20 obviously relevant and that is what I have highlighted in the block there, the pdf block as Aero Speciale decision and its met functionality. I am not sure what that is. But, certainly it is part of the combat suite architecture and the way that the combat management system connects with the surface to surface missile, at least, as control system, which  
25 certainly is relevant, for a later point. Then, if I may come to item 20.

9 MARCH 2015

PHASE 2

Similarly to the system management system, the JPT, joint project, of the Armscor, Navy, DOD joint project team requested a competitive bid for the navigation distribution system and that was where our price was substantially lower. Something in the region of 12, our price of about  
5 R12 million odd, compared to ADS's price of about R18 million. Certainly, my impression, at this stage, was that the, the C Square I Square MDS had been selected. Certainly, documents, which might have been subsequent to this, which are also on the record, certainly discovered documents, show that very clearly. In fact, we eventually  
10 won, won this and we executed this contract. So, we must have won it. But, this is also to show the conduct of what was actually happening at this time. It was actually bizarre conduct, if I may say so. Anyway this response says:

*"Based on an offer of CCII, received on the 16<sup>th</sup> of April 1999, the cost  
15 for this subsystem, including the ADS fees (this is the 12.05 per cent margin that was added) was calculated to be R15.492 million."*

That is our R12 million odd, with the 12.05 per cent added to it:

*"The current offered price of R22.040 million is therefore unacceptable. We expect the most cost effective solution to be offered,  
20 not exceeding the R15.4 million now, to price offered to us for the subsystem, less than five weeks ago."*

So, it shows even though ADS had been instructed that C Square I Square System had actually won that, they still included their own. Whether I come to it or not, that certainly some of the spreadsheets, the  
25 costing spreadsheets that are relevant at this time, also show, despite

9 MARCH 2015

PHASE 2

the decision having been made, that the ADS system, at this price was still included. I have not quite finished yet. I am just giving myself a break and you, you an opportunity to say something.

ADV SIBEKO: If, if one has regards to the comments, made by the DOD in this letter, with regard to the prices that were included in the best and final offer that was presented by ADS. Is, is it fair to conclude, perhaps that the best and final offer, that was submitted presented prices, which were outside the budget, or the ceiling that was set out and approved by Cabinet, for the acquisition of the combat suite?

10 DR YOUNG: There could be no doubt about that, whatsoever. We, we are going to be addressing that, in the documents, coming up. But, just, seeing it is Monday and we last traversed this on Friday and there, in the spreadsheet that I showed, just preceding this, I have indicated, what is now referred to as the April price. That had a price, excluding  
15 VAT as R2.607 billion. I think, if you would include VAT to that, it comes to just over R3 billion. Now, just to emphasize your point, the Cabinet approved a ceiling budget for the Corvette combat suite in April, or May 1998 figure, following the comprehensive cost and risk audit undertaken, was R1.470 billion. If one escalated that to the December, now when  
20 we talk, we are effectively talking about now, a December financial base line. If one escalated that, in fact, it is addressed in one of the ADS letters coming up, that it be more detail that could have been R1.9 billion. So, at this BAFO stage, we are talking about difference of R3 billion to R1.9 billion. In fact, the ADS letter, which I will address actually  
25 talks about a reduction of R1 billion. The, so to answer your question in

9 MARCH 2015

PHASE 2

a nutshell, it still far, far, far exceeds the, the base line and the expectations between the, the negotiating parties, at this stage. Even though this was a BAFO, a best and final offer, it was still, the prices were still very, very substantially reduced, by at least, at least R300 million, if not more, in, in another round, which I am going to address shortly.

ADV SIBEKO: Could you then just deal with the last issues that you need to deal with, in this letter? I see, there is quite a lot of reduction, in the document that you gave me.

10 DR YOUNG: Yes. A, very, very unfortunately, because I will come to the next point, at 26, on my pdf page 4, so it is the fourth page into your document in the bundle. Although the heading is not redacted, the rest of it is.

ADV SIBEKO: That paragraph appears at page 971 of the bundle. So, 15 you may proceed.

DR YOUNG: Yes. It is in the, greatly unfortunate, because I have now had to work not, not with, just with guesswork, but with a multi various repository of various documents, referring to the SSM and the prices in the, and the quantities, et cetera. If I may put on record, at this 20 stage, it is also a, a document that I specifically requested for the purposes of these proceedings. The, the documents regarding the, the actual request for offers and the responses from the supplier, being Aero Speciale and these documents, despite me requesting them, I think, going on two years ago, I have never received. So, I will be working on 25 the SMS from, from what I have. What I have is also [indistinct] in the

9 MARCH 2015

PHASE 2

critical areas, such as this.

ADV SIBEKO: Okay. What issues do you want to raise, with regard to the surface to surface missiles?

DR YOUNG: I will certainly later, it is a very major point. It is a self  
5 standing theme of my witness statement. But, that will be addressed in that them, when I come to it. But, it, I will also be addressing it, very, very shortly, in the next two or three documents that I will be addressing, after, after this one.

ADV SIBEKO: Would this then be an opportune time to leave this  
10 document and proceed with the other aspect of your statement?

DR YOUNG: Yes. I think, that is fair to say that.

ADV SIBEKO: You can then deal with the, the risk premium that you referred to, at paragraph 226 of your statement.

DR YOUNG: Yes. Just to gather my own point together, at, up until  
15 around about this, this stage, the, the base line for the combat suite, we talked about base line at some length on Friday, included the IMS. The spreadsheet, something I omitted to say, when showed the previous spreadsheet, the one that referred to that price to be R2.607 billion, that had an IMS price there. IMS was indicated. What I did not say is that  
20 the competitive product to the IMS, being this Detexis system from, from is it maybe Aero Speciale, at the beginning, which became the Thomson system, was indicated on that spreadsheet as well, although it did not have any pricing. So, clearly, there was something in the works, right from those early stages of, of April. I think it was around about the 7<sup>th</sup> of  
25 April. Be that as it may, it is at this stage that the various price

9 MARCH 2015

PHASE 2

increases, unexplained, many of them, wrong, some of them wrong, lead to this price that I referred to in my paragraph 226, of R89.255 million. That was the price, based on our best and final offer price. That is why I emphasized that point, a little while back. Our price, being  
5 about R38 million, excluding VAT and then with the mark ups, that were, ADS were allowed to, to add, for system level integration, integrated logistics support, et cetera, that came to around the R44.3 million, which I referred to, in 226. Then, if one does the arithmetic that clearly means that, that there is risk premium of R44.9 million, to bring it to the offered  
10 price of R89.255 million, at this particular point. Now, that, that is for the risk premium, which included the R10 million, referred to, in the previous letter. It is actually R12 million, as quoted by ADS.

ADV SIBEKO: Would it then be, would it then be fair to infer that, with the risk premium, of R44 950 000, being lumped onto the price, which is  
15 your best and final offer, the price that was arrived at for the IMS for CCII Systems' IMS, that price became uncompetitive?

DR YOUNG: Yes. Maybe uncompetitive as to, it is not a strong enough word. It actually became untenable. In fact, it became so untenable that, at this stage, we are talking about the 26<sup>th</sup> of May. It is  
20 actually the, you will see that the BAFO letters that I am going to come to, are dated the 26<sup>th</sup> of May 1999. This issue was taken to a MINCOM, the Ministerial Committee meeting of, whether it is the 26<sup>th</sup> or the 27<sup>th</sup> of May, but anyway, I am not sure. But, it was at this stage, it was taken to the Ministerial Committee, where the IMS was particularly addressed  
25 and this particular issue of cost and risk was addressed. This issue was

9 MARCH 2015

PHASE 2

taken, by, I think, it was formally on the record, with the record of the, the, the notes of the meeting. It might have been put verbally, by Jayendra Naidoo, who was the Chief Negotiator. But, it was, in support, in support there, was Chippy Shaik. So, Chippy Shaik clearly took this  
5 issue to the Mincom. They made a decision that the price could not be increased. Now, that is quite a, a significant point, because, when I come to the analysis of the prices of the combat suite, in the next, the next few, the next few points after this, you will see the significance of that. Nevertheless, they made that decision that the Department of  
10 Defence or the budget, the ceiling budget could not afford to carry that extra cost. Basically, that was, at least, the beginnings of the end of the IMS in the base line.

ADV SIBEKO: Now, based on the price that had now risen up or increased to R89.2 million for CCII Systems, IMS, was your company  
15 requested to furnish any guarantee for the risk premium that was sought?

DR YOUNG: Well, if I may, may just correct you. The issues of guarantee and risk are actually separate issues. So, it will be in this particular context. I will answer them both. We have been addressing  
20 the requests for offer, both from the Joint Project Team to the Consortium, the early days it was to the GFC and later, when it would become clear that ADS and Thomson were joining that Consortium, at a higher level Consortium, there were requests from ADS to us for best and final offers. In this particular instance, we have addressed to some  
25 detail, the request from the JPT to messrs GFC and ADS for best and

9 MARCH 2015

PHASE 2

final offer. Now, I am unaware, maybe I must look in the fine print, but I am not aware of any specific requests that the risk, either be specifically requested, as a, as a kind of extra, or identified as a separate partner. Going back to Friday, we remember the, or maybe even Thursday, we  
5 remember the, the very detailed cost and risk orders, in a format that the, the JPT requested. Although they request us to address a risk, there was no addressing of risk in quantitative terms. Okay. So that I can say that I am unaware of ever being asked, to provide risk, a risk provision in financial terms, independently. In terms of the performance  
10 guarantee, that is something different, in certainly, in this context. I will also say, because that comes up as a, an important point. Actually, quite later in the, in the chronology of the, this total acquisition, in fact, almost, at least, several, several months later, there is an indication from the chief executive of Armscor that we were asked for performance  
15 guarantee. Now, that is actually, excuse the, it is, it is actually nonsense. We were never asked for performance guarantee, in this bidding phase, whatsoever. I still want to carry on with 227, but I will give myself a break.

ADV SIBEKO: After you deal with this risk premium and the price that  
20 was eventually required of the, of your company's IMS system, you then deal with the price, in respect of which the Detexis system, as you point out in paragraph 227 was quoted in the best and final offer. Please take us through that and advise what became of that?

DR YOUNG: Okay. As 227 say, with this untenable price of R89  
25 million, clearly ADS and Thomson together had for actually a long time,

9 MARCH 2015

PHASE 2

been talking to this other company, Detexis. Initially it was a subsidiary of Dassault, Dassault, Dassault, but it, it became a, well, I do not know, a 100 per cent owned Thomson group company. It is, my understanding is that their system was also incorporated with the, the Thomson's  
5 Tavitac combat management system. I am not sure of that, but I, but I, that certainly had to have something in there. But, in any case, so this became now a competitor, the, an alternative to the IMS. Quite, where they got the, the price of 42, 49, it is not actually not R49.5 million. It is actually R49.255. Where they got that price, I have got no idea. But, it  
10 was slightly higher than our own price and a lot less than the ADS's price. So, of, clearly, it was much more attractive. But, I think, this is the relevant stage, just to address the point of not being asked to include a, a risk premium. In this, in these, the proceedings of this Commission, one of the witnesses has addressed this point and it is  
15 recorded, in the transcript of his evidence. That witness says Admiral Johnny Kamerman and I have got that document in front of me, my understanding is that those documents are, are on the record. Certainly, if anybody wants to actually get the physical document, they, they can have them later. But, it is, it is on the record and if I open that, that  
20 document up to the relevant point, I can read that particular response.

ADV SIBEKO: Now, could you please describe that document and perhaps where it is obtainable from the record and what the nature of that document is?

DR YOUNG: Yes. It is a document that I actually got in two forms.  
25 The first form is on the Commission's website. Basically, they refer to it,

9 MARCH 2015

PHASE 2

by, by date. In fact, I have concatenated the two transcripts of the, of the two different days that the witness gave that evidence. It was the 26<sup>th</sup> and 27<sup>th</sup> May 2014. Unfortunately, the pdf version that was provided to me, was unusable, because for some strange reasons, when it was printed to pdf, it prints alpha numeric characters with the space in between, which makes it impossibility, impossible to digitally search anything in the document. So, I requested the Commission in the, the person of Advocate Mdumbi, who is the leader of research, to provide me with the original of that. I did not expect to actually get the word version. But, I was given the word version, which I have converted to, to pdf and that is the version that I am using in front of me, because that is a, it is converted to pdf, by me and it does not have all of these crazy spaces in between, in between each of the, of the alpha numeric characters, making up the text.

15 ADV SIBEKO: What is the document, you are referring to?

DR YOUNG: It is basically the transcript of Admiral Kamerman's evidence that he gave, before the Commission on the 26<sup>th</sup> and 27<sup>th</sup> of May 2014.

20 ADV SIBEKO: Do you have the page numbers of the relevant passages of the transcript?

DR YOUNG: I certainly, I certainly do.

ADV SIBEKO: Could you furnish those page numbers for the Commissioner's reference?

25 DR YOUNG: I start reading from about halfway down. But, it starts on page 6275. As you know, in the header of all of these documents it has

9 MARCH 2015

PHASE 2

got APC, in bold underline, the top left hand side and then the page number. Then it says public hearings in capitalised, bold and underlined, then the dates, the 26<sup>th</sup> or the 27<sup>th</sup> of May 2014 and then phase 1. That is the document, to which I am referring.

5 ADV SIBEKO: So, the page, you said, is page 6275?

DR YOUNG: 62, sorry, maybe I am dyslexic, 6257.

ADV SIBEKO: And it is 6257 to page?

DR YOUNG: The next page, 6258.

ADV SIBEKO: 6258. You can deal with that now.

10 DR YOUNG: Okay. It starts at line 15 of that, of the record, of that page of the record and he says:

*“Secondly, and I think that that is the nub of the whole thing. We wanted C Square I Square bus on board, because we had fed this child for 7.8 years. As a result of him not placing the risk premium in this offer to the main contractor, we were left with this [indistinct]. He was the only company of the 18 South African companies that bid their systems to the main contractor. That did not allocate a risk premium for the development of these systems.”*

Sorry, the arrow makes it jump down the whole page:

20 *“I have listed in my statement a whole list of companies, such as Denel, which accorded almost R100 million, because of the [indistinct] was immature.”*

I suppose he means the system or the technology was immature:

25 *“And they put that in their price. That was the price the State (I am going onto the next page) was actually going to have to pay, through the*

9 MARCH 2015

PHASE 2

*main contractor. Richard Young never put a cent on top of that, because he said: 'My bus is technically proficient. It is my bus. It arises from my work, being done, as a Phd and it has no technical risk.' We would, we tried very desperately to convince him that it was not so*

5 *and it was not a technical risk per se, of getting data from one point of the vessel to another. It was the corporate risk of the main contractor, having to assume the risk of performance, with this bus, this immature bus on board. As a result of that, it was decided that senior members of the Navy and Armscor, in this case, the CEO of Armscor and, and our*

10 *Navy officer, as Admiral Howe, just below the Chief of the Navy, Admiral Howe, to go and try to reason with Richard. We had tried to reason with..."*

Now, there are a lot of extremely, extremely interesting, important things, in that one and a half, or that part, two half pages of evidence.

15 ADV SIBEKO: What are they?

DR YOUNG: Well, the first is that we, that this child was fed for seven to eight years and that concords precisely with my evidence. This was 1999, and we are going, the development, system engineering, both technology development, technology retention and system engineering

20 for Project Sitron had indeed, been going on for those seven to eight years. In those seven to eight years, we had developed this thing, the IMS far, far, far further than the technology demonstrated. In fact, to be honest, to be frank indeed, I never knew that I was developing a technology to a demonstrator. We were developing a system, to put on

25 board a Naval frigate, or a Naval Corvette. That is why we had gotten

9 MARCH 2015

PHASE 2

so far. If I go for a slighter side, which is relevant, I talked about the system data bus that we developed, under Project Winners, Project Rick for the submarines. It is traditional in this kind of engineering, system engineering that the glue, the integration mechanism that puts the  
5 system together, nearly always runs two years ahead of the rest of the systems, in terms of both system engineering, definition and development. We, I can say, we were actually running far, far, more than two years ahead of the rest. It does come up in the evidence. But, we would have finished the system engineering and development, to all  
10 intents and purposes, by the end of this year, 1999. That, it is referred to as coming to milestone three. We got to milestone three, much, not much later than this, where the system is basically fully tested. It is not fully qualified and on board a vessel, because no vessel exists, not even an integration test would exist, at this early stage. But, the, the IMS  
15 was, was a fully developed system. The, the next thing is the contention that, that Admiral Kamerman, he said was the only company that did not do so. Well, there are a couple of reasons for that. First of all, we did not, we had asked to do so. Secondly, we did not need to do so. There were two years of cost and risk orders. There was plenty of opportunity,  
20 if there had been, seemed to be a residual risk, then being required or recommended of making sure that risk is, is catered for, in financial terms. But, as I read out, from the cost and risk orders, last week, that the risk was, was determined as being low. That was the, the DOD's own position of risk. I certainly could never counteract that, saying, well,  
25 it is not low, I am adding on my own risk. How do I justify the risks that,

9 MARCH 2015

PHASE 2

oh, sorry, the costs that I have been putting in for, for years? I think it was R29 million and then R38 million and whatever. How do I suddenly start jumping to R49 million or R89 million, based on risk, I mean, based on what kind of risk? Certainly, there was no business risk for me. Also, 5 that there might have been some talk of risk, that I have talked about earlier this morning. But, there was never any direct approach, as to us saying, the gentlemen from C Square I Square, there is this risk, address it properly. There was loose talk, about risk, with us. There might have been tight talk with ADS. But, certainly, we were not even 10 involved, at this level. We were, the only involvement we really had, was responding to our, to the ADS best final offer, request for best and final offer. I can give myself a break there. I still have got more to say.

ADV SIBEKO: From the passage that you read, I, I seemed to pick up certain suggestions, relating to approaches, being made to your 15 company, to make provision for the risk. Do I understand your evidence correctly, when you say, there were no such formal approaches?

DR YOUNG: There were absolutely no such formal approaches and the only approach and it is actually, I, I took notes of this meeting. It was not even a, a properly, you said it was in a meeting. It was a get 20 together, if I may say so, in the Admiralty House, with Lu Swann, the CEO of Armscor and Admiral Howe. In that meeting, even though, even though Lu Swann refers to them asking us to provide a risk provision, they actually did not. It is just something that he concocted later. When I say that, when I say providing a risk, a, a provision for risk for the IMS, 25 what, what is on the record and just to show you the ludicrousness of

9 MARCH 2015

PHASE 2

this, he said, is that they asked us to provide a risk premium for the whole combat suite. We, we will come to that letter. It was a letter, written by him, after he had left Armscor. I think, it was a letter written by, by Chippy, Chippy Shaik. Sorry, sorry, not by Chippy Shaik, to  
5 Chippy Shaik. But, just think of the ludicrousness of it. Even if we were asked to provide a risk premium, we are being asked to provide a risk premium for a R2.6 billion combat suite, when we are offering a R38 million, excluding VAT, price for an IMS. Our, our, the profit that we might have made on it, gross profit or net, might have been, I mean, 30  
10 per cent. Say R38 million, say R12 million, R13 million, net profit half of that, at best, 10 odd, only a five, R10 million profit. What company, what company MD is going to provide a risk guarantee for a R2.6 billion? It is so ridiculous that whatever, whatever evidentiary value that letter might have, it has got no logical value, whatsoever. If I may, just one, I do not  
15 want to loose my train of thought. But, anyway, that meeting was held, I think, it was actually held, following the August 1999, now we are talking about May 1999, the August 1999 Project Control Board meeting, certainly one of these Project Control Board meetings, that instruction to meet with me was held. I, that is where, it was called a get together,  
20 because it was not a meeting. It was held, not shortly after that. But, that is far, far, far too late, to be addressed and everything, regarding risk, where there is risk for the entire combat suite, or more appropriate, appropriate, as it should have been, asking us for, a provide risk, a premium, or risk addition or risk contingency for, for the IMS itself.

25 ADV SIBEKO: So, I understand you correctly, to say that the letter that

9 MARCH 2015

PHASE 2

was sent was requiring C Square I Square to provide a risk premium for the entire combat suite or for the IMS that it was quoting for?

DR YOUNG: No. That is, just to be clear, this was not a letter sent to us. This is a letter that I have discovered. It was a letter sent, I think, 5 from Lu Swann to Chippy Shaik, after Lu Swann had left Armscor, where he recalls discussing this risk premium. I am, I am working now from memory, I am not 100 per cent sure. Anyway, what I will, what I will categorically say is that we were never requested, in writing, to provide a, a risk premium. This is just a recall of something, by the by. May I 10 carry on?

ADV SIBEKO: Yes. You may.

DR YOUNG: Okay. Now, the point of, is, is as Admiral Kamerman says, Richard Young never put a cent on top of it. Well, I did not put a cent on top of it that was, that was visible to him. It is not as though I 15 am trying to allude to anything that I was doing. We do not necessarily put a, when, when we deal with risk, we do not necessarily only deal with, if I can just put lump sum money, cash on top of it. But, the risks are, risk can be handled in many different ways. Here, we already had all the hardware, for the development of the IMS and all the hardware 20 that still had to be bought would have been bought under the project. So, there was no necessary, nothing, no necessity to make a provision, even for, to set aside money, to provide anything. Everything was involving, let us call it, intellectual property development. So, certainly, there would have been sufficient man hours, which of course, could then 25 be included in the, in the IMS best and final offer, in the budget. There

9 MARCH 2015

PHASE 2

certainly were sufficient man hours to complete the development, to complete the formal qualification, for the IMS and for some kind of contingency for things, not being done. So, it will be a completely incorrect statement that no risk had been provided for, at all. It certainly  
5 was not cents worth, it was maybe man hour's worth. But, also, his contention here, I have to be honest, I have to be frank. The thing about my response, as being a: 'My bus arises from my work being done as a Phd.' This is complete unadulterated nonsense. We are talking here, of 1999. My Phd was handed in, in July, I think, it was the 8<sup>th</sup> of July of  
10 1996. That is three years before this. The work done, was finished, almost, almost a year before that. I was only, if one takes six months to a year to write up a 450 page Phd thesis. Okay. Indeed, most of the work actually, had come out of, more out of my Msc, because that was done in 1992. So, there was never any discussion, whatsoever, with  
15 Admiral Kamerman that he would be allowed to quote me, as saying that this risk issue has got anything to do with my Phd. It is, I have to be honest, this is completely, this is, this is just the truth.

**ADV SIBEKO:** Is there any further comment you need to make, with regard to the passage?

20 **DR YOUNG:** Yes. Let us carry on from there. We tried desperately to convince him. This is also, it just is not the truth. There, there was no desperate, if there was anything desperate, it would have been done on paper. Whether, or maybe a, one could say that at this point, the JPT is not, is a level six entity. It is not communicating with level three. We  
25 were a level three and sub, sub, and so I see there is a context of us

9 MARCH 2015

PHASE 2

only being only a sub system somewhere, level two. So, we, we get dealt with by GFC or ADS. But, there is something, there was something desperate here. Now, we are a base line system. There would surely have been something in writing, to say we definitely need  
5 you to increase your price to, to risk. But, anyway, like many of the, the statements or averments that come up that are totally relevant, this is totally bald. Where is a reference in the, in the evidence documents that are supporting this witness statement, or at least, the transcript of the oral evidence that supports such a contention?

10 ADV SIBEKO: You have dealt with the passage now, exhaustively. Or is there anything else you need to add there?

DR YOUNG: No. I agree, it is exhaustive in just, just in this particular context. But, it will probably raise itself again.

ADV SIBEKO: Shortly before we resumed the proceedings today, you  
15 requested certain letters to be printed that you needed to refer to. Would this be an appropriate time to refer to those letters, or perhaps after tea?

DR YOUNG: It certainly would, in the terms of logic, being the chronology an appropriate time. But, I am not 100 per cent sure,  
20 whether there were two, the ones that I indicated to Advocate Sello that were very important to the, the statement coming up. I am not quite sure, whether those have been printed. I know there were photocopy problems. But, certainly, if they have not been properly printed and numbered, then this would be an appropriate time to, to break, to allow  
25 that to happen.

9 MARCH 2015

PHASE 2

ADV SIBEKO: Chair, there are letters that have been copied, which, I think, deal with the theme that the witness is testifying on now. Copies have been made. We would just like to, perhaps number them, for purposes of the record, so that we can, we can deal with them properly.

5 Would this be an appropriate time to take the tea adjournment?

CHAIRPERSON: Advocate Sibeko, I insist 10 to 11. I think, maybe go to the next point, because there are only 10, breaking for tea at quarter past 11. We need to make up time.

ADV SIBEKO: As it pleases the Chair.

10 DR YOUNG: Okay. If I may say, that is not bad at all, because we do not have to come to those two letters straight away. Because, as my witness statement says, we still have the, the document, indicated as RMY 97. Certainly, to traverse that, I did not know tea was going to be at quarter past 11, but we that, without, without losing the chronology of  
15 this evidence, we can carry on with that, before having, having to go to a completely different point.

ADV SIBEKO: Now, paragraph 227, I think, we have dealt with this.

DR YOUNG: No. We have not dealt with 226 yet. Oh. Sorry, my, sorry, sorry, you are right. My curser made an eight look like a six.

20 Sorry.

ADV SIBEKO: We, we then go to 228.

DR YOUNG: Sorry about that. Okay. I now have the, in front of me, and it is in evidence, a document, indicated as 97, which is, we are going to come to it in the future. So, it is, looking forward, in your  
25 bundles. So, maybe I should just stop, to make sure that you can,

9 MARCH 2015

PHASE 2

because it is not the next one in the, in the bundles. But, it might be in a, I am not even sure, exactly where it is.

ADV SIBEKO: Are you looking for RMY 40?

DR YOUNG: I am looking for RMY 97.

5 ADV SIBEKO: Dr Young that would appear at the end of paragraph 466 of your statement. Would that be correct? It is page 117.

DR YOUNG: I think so, because I have got a note here, looking, looking forward. But, I do not want to go there and then I will lose my place here. But, I, I do remember it comes up in one [indistinct] so I  
10 would guess so, yes.

ADV SIBEKO: Yes. In terms of the quotations made, that is RMY 97. That appears, that annexure is at, in file five, at page 1858. Dr Young, the document you are referring to is a letter on ADS letterheads, dated 24 May 1999. Is that correct?

15 DR YOUNG: That is correct, yes.

ADV SIBEKO: Alright. What is it that you want to deal with in this letter?

DR YOUNG: Quite a lot of things.

ADV SIBEKO: You can start now.

20 DR YOUNG: Okay. It is a letter addressed to the Project Officer, Project Sitron, Captain Kamerman of the Department of Defence. It is a best and final offer for the Project Sitron combat suite. What, it is certainly a letter regarding it. I, I, and whether it is the, where it is the whole best and final offer, or not, I see it is 11 pages long. But, it  
25 certainly addresses their best and final offer. As I have first of all, stated

9 MARCH 2015

PHASE 2

before, I want to address the issue of the price increases, because it is so important to the deselection of the IMS. I also want to address the point of the, the price of the surface to surface missile and, and other, and other items, making up the price and making up the price increases and price reductions. As a starting point, as I have said, in my own witness statement, ADS's best and final offer, also proposed to remove the ammunition, which will include the surface to surface missile rounds, from the offer, in order to bring down the price of its offer, by approximately R300 million. It is not that I am saying so, that is what the letter says. I have quoted one particular sentence of it, which says:

*"In order to further close the gap, the removal of ammunition, except for the system qualifications, will result in a saving of approximately R300 million, at the level of acquisition costs."*

Now, if we start off at the, where it says close the gap, obviously, the gap, at this stage, is the expectation price. One can say, one of the expectations, might have been the R1.9 billion. There is various documents on the record, which I have discovered and I will be addressing, which shows that the expectation, at this time, was, well, at one time, at least, was R2.3 billion, with further price reductions expected, which would have brought it down to, I think, a maximum of R2.1 billion. But, certainly, a later expectation was the one, finally arrived at, which was R2.599 billion. I was talking around terms of R2.6 billion. At this stage, the, or what, the R2.6 billion excluding VAT. So, the, in the gap, there is a difference between around R3 billion and, and R2.6 billion. So, then, obviously, some fairly major things had to be

9 MARCH 2015

PHASE 2

done to, to achieve that. So, if I open the, the document here, we also have a ventilation of the whole issue of something that came later in the project, which was part b's and part c's. To put that in context, part b, well, let us just say the second part was the combat suite. Then that

5 further got divided down into that part, part b, which would be provided by Thomson and ADS and include the whole integrated combat suite and part c, which was the part, provided by the South African industry, which would then, there were the risk, would be taken by the State, that being the DOD, the DOD, for want of a better term. Then, once those

10 were fully qualified, they would be handed over to ADS and Thomson, as qualified subsystems and then integrated and then also becoming part, part of part b. That, then we can go onto the next more important is the paragraph, starting with we understand. Now, this is the ADS perspective:

15 *"We understand that the main driver is the price, which needs to meet the South African Navy and Armscor's budget expectations."*

We alluded, evidence leader, you alluded to that in the beginning, but, well, in this question:

20 *"Although every effort has been made, to reduce the price, to the expected level (a reduction in price overall of about R1 billion) has been achieved through the reduction scope that you have accepted, as well as price reductions from our side. The enclosed price list, does not meet the expectation."*

Now, analysing this, it is clear, obviously that that is, it is correct. The

25 price does not meet the price expectation. Certainly, as we discussed

9 MARCH 2015

PHASE 2

on, on Friday, is that the Navy, in this one letter, I think, it was not the one that might have been part of this request for best and final offer, where it says that the Joint Project Team, representing the DOD, had accepted a substantial reduction in both quantity, or quantity and quality.

5 Indeed, that is true and it is actually ADS that is saying it themselves here. Although we might come to it, the initial prices that ADS and Thomson issued for this combat suite, in response to the expectation, the adjusted expectation to R1.9 billion, their initial quotes were R3.9 billion, just R2 billion more. No. Sorry, R1.9 billion to R3.9 billion. Ja.  
10 More than the expectation. So, certainly, there were, had been substantial reductions in scope of supply to, to meet that. Certainly, I am unaware of any price reductions from our side, our side, being ADS's side. I have only seen price increases and I am pretty sure, that is borne out, by the previous letter that, from, written by Admiral  
15 Kamerman that we have just addressed in some, in some length.

ADV SIBEKO: A discussion of that letter would then bring us to a, the aspect, relating to the evaluation and selection of the data bus. Is that correct?

DR YOUNG: Yes. It would, but before, I want you, I wanted to show  
20 the next sentence, which is block, probably blocked, in a highlighting block, which is the one, which I read out. To me, it is highly interesting, if not fundamental. In all:

*"In order to further close the gap, the removal of ammunition, except for the system qualifications was, will result in a saving of approximately  
25 R300 million, at the level of the acquisition costs."*

9 MARCH 2015

PHASE 2

Now, I have discussed the significance of the SSM and the pricing and the reduction, with which I was trying to deal to make head or tail of this. But, this is certainly a very valid indicator of where things are, or did go, or certainly were considered and that it certainly is one of the pointers, 5 which I have used to try to come to my own conclusion. Now, as I have said before, by this stage the price had decreased from R3.9 billion to around about R3 billion or R2.9 billion. The whole issue of VAT is always problematic. I understand VAT, but I can never understand, whether figure include them or exclude them, not never, sometimes I do 10 not. Anyway, it was fairly clear, as I said, the final price arrived at, was R2.6 billion. It just seems interesting that, by removal of the ammunition, of R300 million, they were able to achieve a price that was eventually agreed at, of just over, it was agreed at, at just over R2.6 billion, but eventually signed at just under R2.6 billion, at R2.559 billion. 15 So, I think that this is a, this is an interesting point of departure for that particular ventilation of that aspect of the evidence. I do not need to necessarily belabour the point, but two paragraphs down, in the middle, there is the point I addressed about, about part, part b and part c. In this particular, particular point, you talk about part c, except for the IMS. 20 Now, there is evidence showing that originally, the IMS was considered, as a, as a part c and here it is being included, as a part b. Then, there is a good reason where, well, maybe it is a good reason. But, certainly, one of the good reasons is that the IMS, which is, we addressed this on Friday, is now being included, within the Tavitec combat management 25 system. The architecture is being changed, to basically include the IMS,

9 MARCH 2015

PHASE 2

within a subsystem, not as a combat suite element, but as an integral, now this is where it would be as a subsystem of the combat management system. Now, the combat management system was coming from France, or Thomson CSF from France, with some  
5 modifications. So, it is, it is clear, my clear tint of logic, as they say, legally speaking, if the IMS was now part of an element, which was part b, then it would also have to be part b. So, if it was part b, this is one of the reasons, why there was a risk premium added, to the IMS.

ADV SIBEKO: And would be responsible for a payment of a risk  
10 premium, in those circumstances.

DR YOUNG: That is correct, yes.

ADV SIBEKO: Now, my question is, who would be responsible, for payment of the risk premium in those circumstances?

DR YOUNG: Yes. I think, there are various aspect of looking at that,  
15 but maybe the *dae facto dae jure*, if that is the right word, one is now what Cabinet, Mincom, not Cabinet, Mincom said is that the State is not going to be paying for the, for that risk premium. Of course, they were prepared to pay for many other risk premiums, but not for, not for the IMS one.

20 ADV SIBEKO: Would your company have been responsible for the payment of that risk premium, in these circumstances?

DR YOUNG: Certainly, if we be asked for a risk premium and in fact, indeed, later, there is a letter, which addressed, with the various people, by various people, in this, in this particular forum and, and in SCOPA,  
25 with great glee, if I may say so. It certainly will, we will address that

9 MARCH 2015

PHASE 2

letter, where they refer to a risk premium, which I had determined, but if I say, at this point, so that nobody gets over-excited and, and getting me out of context. When I, when the ADS changed the architecture and included other, other things, we talked about on Friday. It is

5 unfortunately, technical things, like, bridge interface units and dual protocol stacks and all of those kinds of things. Basically this fundamentally changed, not only the, the technical base line, at that stage, but the base line to which the IMS had been developed and existed and design [indistinct] at that stage. Then, I talked about adding

10 a risk premium of 35 per cent. Okay. Now, if a risk premium at, of 35 per cent, at this stage, had been either added on voluntarily, by me, or in response to these desperate requests, by the JPT, either directly or indirectly then adding on a reasonable risk premium could certainly be done. But, I would never have added on a risk premium, of R49 million.

15 Because I just could not justify it. Possibly, the risk premium could have included a 10 or R12 million then for the IMS study. I do not quite know, how you would determine a, a premium for the IMS. In fact, I thought I do so in a very elegant way, in that letter, which, which I think, even Chippy Shaik addresses, in the response, the response to these, to the

20 Commission. I am sorry, just excuse me for a second. In fact, maybe pre-empting that letter, at this stage, what I said is that, there was still a, you know, we talk about 1999 now. By the time an IMS had to be delivered into the integration test bed, or even to ADS, to start integrating its own stuff, the IQR and reference set, or whatever, it was, I

25 think, I referred to on Friday. There was still, there was still a certain

9 MARCH 2015

PHASE 2

amount of time. It was not only a certain amount of time to address, to technically address these risks, but if and as Detexis had said, they had this disserta data bus, working on a French aircraft carrier. Then it should not be too difficult to do a technology insertion from there, you know, into the Corvette combat suite, if our one failed. So, one of my proposals there was, we are talking about a reasonable risk, apportionate, in terms of money, in terms of approach. So, okay, well, it is going to cost some money, to do this risk reduction. You do not get that level of risk reduction at system level and I am not talking about here, when I said earlier about having a contingency of man hours and sort out, that is a different issue. It costs money to sort out issues, risk issues, especially risk issues that are introduced by another party, this being ADS and Thomson, to suit their own ends, which is to include the Tavitec combat management system. That is the reason why there was a risk. But, be that as it may, when I said if, if we embarked upon this, this CS 7 mod one architecture, which included the bridge interface unit and the dual protocol stack, et cetera, et cetera. If we did not get to it, within the time, the time scales that I was indicating, I think, was about two years and we, we then demonstrated a true risk, in terms of, of time scales and cost and performance, which brought together, might add up to a true business risk or commercial risk or a level four risk or a five risk or a six risk or whatever. Then, we would withdraw completely, keep the money that we have been paid, which would not be that much, because we would have spent that money on, on risk deduction and not demand any further money, or participation. Now, that is a fairly serious thing, for

9 MARCH 2015

PHASE 2

an MD of a company to say, who owns his own company. That, that is really, putting one's money, where one's mouth is.

COMMISSIONER MUSI: I am sorry, Dr Young, to interrupt you. Are we still talking about risk? I thought we were under the topic evaluation  
5 and selection, of the data bus. I, I suggest that we spend too much time on one aspect.

DR YOUNG: We, we, the, the, my evidence leader actually asked me a question about risk. So, I was responding to his question. I think, we still are, overall, on risk. But, I, I respond to questions put to me.

10 COMMISSIONER MUSI: And then, of course, no one wants to limit your scope of testimony. But, we have got time constraints, as well.

DR YOUNG: Unfortunately, I would have to address my evidence, as it is set out before me. Not everything is set out before me in my witness statement. I have got a lot of documents. I have to address my  
15 evidence, the way it is before me, however long it takes.

COMMISSIONER MUSI: I suggest you have to find a way, of trying to shorten things and get to the point. Look, we have been sitting here and we have dealt with only one, two, three paragraphs of your statement, since the morning.

20 DR YOUNG: I understand that. But, I have to put it on the record, seeing that you are asking, is for the last, I think, in fact, ever since I started dealing with Advocates Skinner and, and Sibiya is that I have said that my evidence in its totality, just testimony in chief, is more likely to last, something like three weeks. We are going to try and limit, limit it  
25 to much less than that. But, it should, nobody should be under any

9 MARCH 2015

PHASE 2

misapprehension about the length of time that it is going to take, to traverse my evidence properly.

CHAIRPERSON: Just as a, as a remark in passing, Dr Young, there is no Advocate Sibiya that we, that ever work for the Commission. I only  
5 know about Advocate Sibiya, not Sibiya.

DR YOUNG: I am sorry did I get my pronunciation wrong?

ADV SIBEKO: Alright, having dealt with that aspect, this would bring us to the evaluation and selection of the data bus. Would you start with that please?

10 DR YOUNG: Sorry, advocate, are you talking about now, my witness statement, or the, the rest of this, of this letter?

ADV SIBEKO: No. Are you still dealing with that letter? Or are you?

DR YOUNG: Oh. Well, seeing that the letter is on front, you know, I just have to address it now. It has, it puts things that are coming up, in  
15 context, that is the way, that is the way documents work, unfortunately. The last sentence of the letter puts it in, in the context of what I said about reduction of price. Anyway it says that:

*“Should the South African Navy and Armscor accept the above recommendations, then the price of the combat suite shall be reduced to  
20 R2.516 billion.”*

Now, obviously, what they are talking about, with the major, the major share of that, is the R300 million production, reduction in the removal of the ammunition.

ADV SIBEKO: And this would relate to the missile blocks is that  
25 correct?

9 MARCH 2015

PHASE 2

DR YOUNG: Well, the line share of the cost of the ammunition is the surface to surface missile. So, there is other ammunition, but it is relatively small, by comparison. We have come to the end of that letter now.

5 ADV SIBEKO: What does the, the time to then deal with the evaluation and selection of the data bus? Dr Young ...[intervene]

CHAIRPERSON: Advocate Sibeko, seeing that you are now dealing with a new paragraph, maybe it might be an appropriate time to take the tea adjournment. Can we come back at half past eleven?

10 ADV SIBEKO: As it please the Chair.

CHAIRPERSON: Thank you.

**(COMMISSION ADJOURNS)**

**(COMMISSION RESUMES)**

CHAIRPERSON: Thank you.

15 RICHARD MICHAEL MOBERLEY YOUNG: (s.u.o.)

ADV SIBEKO: Dr Young, just before the tea adjournment, you were about to start with your discussion of the evaluation and selection of the data bus, something, which took place at the PCB meeting of 27 May 1999. The document that would assist you, in this regard, is the one you referred to in your statement, as PCB 1999/5/27, our RMY 40, which is in file three and it starts at page 973. Could you take us through that?

CHAIRPERSON: Advocate Sibeko, just allow us time to make notes, because you have written down those annexures, we have not.

ADV SIBEKO: I beg your pardon ...[intervene]

25 CHAIRPERSON: If you can just look at us and give us enough time to,

9 MARCH 2015

PHASE 2

to make our notes.

ADV SIBEKO: I beg your pardon.

CHAIRPERSON: Thank you. You said it is RMY?

ADV SIBEKO: RMY 40, at page 973. Do you have the document in  
5 front of you, Dr Young?

DR YOUNG: Yes. I do.

ADV SIBEKO: Do you confirm that the document is the minutes of the  
Project Control Board, PCB meeting, held in the [indistinct] conference  
room at Armscor on 27, I think it is 10h00, May 1999. It will be to review  
10 Project Sitron and Wills.

DR YOUNG: That is correct, yes.

ADV SIBEKO: Now, present at that meeting, are Mr Esterhuyse, the  
Chairperson, it was Admiral RC Simpson and Anderson. Mr L Swann,  
Rear Admiral AM Howell, Rear Admiral JGOJ Van Der Schyff, Captain,  
15 South African Navy, JEG Kamerman, Captain, South African Navy,  
AJCV, Mr K Hannafee, Mr F Nortjè, Mr R Vermeulen, Captain SAMJD  
Jordaan as the secretary. Take us through that minute.

DR YOUNG: Okay. As you have said, it is a meeting, a meeting, the  
minutes of the Project Control Board meeting, which was held around  
20 about the same time as the best and final offers, which I talked about in  
the, the era of the 26<sup>th</sup> of May. This, this Project Control Board was held  
on the 27<sup>th</sup> of May, the date up on the top, right hand corner. I have  
highlighted a few relevant sections, which I would like to address. The  
first one is on my pdf, page 3. So, it would be the third page, into your  
25 document, in your bundle.

9 MARCH 2015

PHASE 2

ADV SIBEKO: That document is marked 975, at the bottom right hand corner, of the bundle, at, at page, there is an item five, dealing with Corvettes. At paragraph 16, there is a discussion on financial and under paragraph a, thereof, there is best and final offer. Is that, like an issue, 5 you would like to draw the Commissions attention to?

DR YOUNG: I am sorry, I was actually looking, looking, at the rest, myself, at it. The, the, what, the first one, I want to address is paragraph 15b.

ADV SIBEKO: You may proceed.

10 DR YOUNG: Okay. Okay. This is involving the surface to surface missile, selection the SSM, which I addressed in the previous part of my evidence. It is, it is, the minutes is noted as, that:

*"The project officer, Project Sitron, Officer Theron, requested ratification from the PCB for the SSM selected. The PCB ratified the 15 selection of the Aero Speciale MM40 missile. This decision is to be recommended to the IPT."*

I presume that is the Industrial Participation team:

*"Chairman for action, Officer Theron to take note."*

ADV SIBEKO: What is the import of what is recorded there, in your 20 understanding?

DR YOUNG: Sorry, could you repeat yourself?

ADV SIBEKO: What is the import of what you recorded in that paragraph, in your understanding?

DR YOUNG: Okay. It is this, it is an introduction to two things. One, 25 an analysis of the, the Corvette price and how it got down to the, the

9 MARCH 2015

PHASE 2

original, well, not to the original, to the final, the final figure, as well as, my, my addressing the point of, of how, how that was done, specifically in respect of the surface to surface missile point.

ADV SIBEKO: Do you want to deal with that aspect now, or is this an  
5 aspect that you deal with later in your evidence ...[intervene]

DR YOUNG: No. That is, that is, let us, sorry. That is a separate theme that I address separately. Unfortunately, and believe me, I am also trying to do this in the most effective, I will not say the most efficient way possible. But, I have to address issues, as they come in, up, in the  
10 documents. I am trying to make them chronological. But, I do not, if, if we ventilate the point here, it will save us, going back, back to the point. So, if it comes up here, it is better to address it now, than to, than to go backwards and forwards. I am trying to work, mainly forwards. If I may, I can now come to point 16 and just of, and everything here is related, or  
15 relevant, not just related, to the IMS as well. These are not just *bysake*, as one might say in Afrikaans.

ADV SIBEKO: Yes. We are dealing on the best and final.

DR YOUNG: Alright. We have just been, we have been dealing with the best and final offer. We are not quite finished on that point, because  
20 we are still going to the two letters, which I have mentioned much, much earlier and as far as I know, have been pulled out of the discovery schedule, copied, I presume, that is why Advocate Sello is, is not here. Those are being copied, sufficient numbers of copies. So, we will address that, at the right, at the right point. But, we, we are talking  
25 about the BAFO and if we go down to halfway through 16.a, the Project

9 MARCH 2015

PHASE 2

Officer is on record of saying that he believes that the combat suite price could be reduced to less than R2.6 billion. That, that is, is true and then basically, the price, at this stage is R2.6 billion and that is despite, the other than R1 million was the final price agreed to. It is interesting and,

5 I think, we are, still coming to those notes. The previous minutes of the PCB was the 24<sup>th</sup> of April and at that stage the price of the combat suite that was on the table was R2.3 billion and the Project Officer reports to the PCB that he is hopeful, for want of a better word, that the, the price can be still reduced substantially further. I think he, then, has the

10 arithmetic down to about R2.1 billion or so. But, anyway this is now May. The, interesting here, is we have the chairperson, who, as, as you said, mentioned, advocate, that, that is Chippy Shaik. I have not, or I was actually looking for, where I have lost you for a second was a statement of recusal. I have not seen that. It might be here. But, he is

15 certainly, being involved in the, you know, in the Corvette combat suite discussions and deliberations. In fact, if one may say so going backwards to the, the surface to surface missile that certainly looks like a decision. I have not seen that the chairman, at this stage, is none other than Chippy Shaik. I might be wrong. But, that is, certainly seems

20 to record decisions. Nevertheless, at this stage, the chairperson indicated costs of R6.6694.61 billion, set aside by the Department of Finance in the affordability study documents, presented to the Cabinet subcommittee. A combat suite price of R2.6 billion was indicated in the affordability documents. Now, to, to be very frank, I had absolutely no

25 idea, at the time, anything to do with the affordability report or the

9 MARCH 2015

PHASE 2

affordability study. But, even in the correct context, this affordability study has received quite a lot of attention in this, in this Commission and seems to be a matter of great sensitivity, amongst the various parties. But, be that as it may, I am only addressing it, in terms of what the

5 Chairman says. But, I, I have to be honest. I find it of great interest and import that a price for the combat suite of R2.6 billion is indicated in the affordability report. As hopefully, I am trying to adequately portray, I do know quite a lot about how the prices were derived. I have never seen anything, whatsoever that might indicate a price, an acceptable price of

10 R2.6 billion for the combat suite in the, in fact, it is actually, it is amazing, for want of a better word right now. If the, and there is very much on the record that the, that the DOD made it so clear to us, when, in the, the forum, where I participated, the preceding price was R1.47 billion, in those financial terms. It was not to be exceeded under any

15 circumstances, whatsoever, other than possibly rate of exchange, which took it to R1.9 billion. So, quite, where a price of one, R2.6 billion, suddenly pops up with, it is, it is, okay, to be frank, it is clear that there must have been other activities that are not on the record, anywhere that I have ever seen, in, in my own investigations, for other than the

20 purpose of this Commission, or this Commission itself. It shows that there was something going on, that was going to indicate an acceptable price of R2.6 billion. In fact, all the indicators are, exactly to the opposite. So, that is a, that is an important thing for the Commission, in the greater scheme of things, not only in my own particular theme,

25 regarding the IMS. If we come to the next point, b, we will be talking

about price negotiations. The chairperson, again, instructed the Project Officer to complete price negotiations first. Once this is done, Project Officer is to return to the PCB with further presentations. Anyway, as one, we will see to where, we have just come from and where we are  
5 going. The price, as indicated, of R2.6 billion it never, there never seemed to be any further negotiations, whatsoever. Under the last item that I mentioned, just before tea, there was an indication of a R2.5 billion. There were a couple of things missing from that price. It ends up as R2.6 billion. So, it would seem, on the face of it, that there were  
10 no negotiations. Clearly, in my own view, at least, once the affordability price was indicated, as being, let us call it, for want of a better word, the bench mark that was acceptable to all, in sundry and that is where they stayed. That is where it was signed.

ADV SIBEKO: Earlier on, you spoke about the surface to surface  
15 missiles, which were reduced. I see, on under paragraph c that there is mention made of purchase of missiles. Does that have anything to do with the price in the manner in which it was finally arrived at?

DR YOUNG: Absolutely. In my view, which unfortunately, is partly  
obliterated by what you legal people call over-adapting, what I called  
20 severance, my partial view, shows that there was something done, regarding the missiles that brought the price down, to the R2.6 billion. But, we will come to that, so, separately. Then, the next point, if I may, is under, at page 18, which addresses again, risk areas. Risk is tremendously important, in fact, it is almost a fundamental issue, of my  
25 whole evidence. Anyway, it is highlighted risk areas:

9 MARCH 2015

PHASE 2

*“The Chief Executive Officer of Armscor wanted to know why the local industry had fluctuated so much. The Chairperson stated that the contractor had double accounted on certain line elements (i.e. risk).”*

But, this had been subject to be removed. Item closed. Well, sure, 5 maybe ADS had double accounted. I do not think it was the local industry had double accounted. I think, they had single accounted, but, if I may emphasize the point, we had zero accounted. ADS were multiply accounting for mark ups, as we will come to later, mark ups and provisions and risk, et cetera. But, that is why this price jumped from 10 R1.9 billion to R3.9 billion and then, had to be fought, fought back to R2.6 billion.

ADV SIBEKO: That then, deals with the issue of the combat suite in this meeting of the PCB. Is there anything else you would like to deal with here, before we go to what you set out in your statement, at 15 paragraph 230?

DR YOUNG: Yes. If I may, I, I would like to. The Project Control Board minutes, invariably consists of the minutes itself, as well as various annexures and more often than not, it includes a presentation, made to the Project Control Board. Certainly, in some instances, that 20 same presentation was made to the Naval Board, as well. My understanding is that normally the Naval Board would hold prior. But, if we may, for point of, documentary proof, I know that there is no onus on a witness, in, in a Commission of enquiry, to, to prove things. But, of course, it has to be my intention to, as far as possible, point things out, 25 which were on the documentary record and preferably, has not, as my

9 MARCH 2015

PHASE 2

say so, but as the dae facto truth, according to the documentary record. So, if we may go to, what is the 7<sup>th</sup> page of my of these, of my document, which are the minutes and if I go to, I think, yes, we are talking about appendix a to the minutes.

5 ADV SIBEKO: That is page 979, at the bottom right hand corner. Appendix a is dated 31 May 1999. Is that correct?

DR YOUNG: That is correct. Now, as far, even though that date is after the meeting, it does say, I think, that is when it was administratively appended. But, you can see, it says a report of Project Control Board,  
10 the 27<sup>th</sup> of May 1998. It says that at the top.

ADV SIBEKO: It also records the best and final offer, received on 24 May 1999. Is that correct?

DR YOUNG: That is, that is correct, yes. Alright. So, we go down to somewhere half, somewhere down from the top under the heading the  
15 offered combat suite. There is a bullet, two bullet points there. The first bullet point says R2.964 billion. So, that was obviously the first one. It says:

*“Our expectation was less than R2.6 billion, derived from our quote of the 7<sup>th</sup> of April 1999, from, of R2.775 billion, reduced by at least R175  
20 million, due to lower prices for the FPI.”*

*Which stands for foreign procured equipment, including the radar, that is the surveillance radar, sonar and missile segments, as evaluated and selected in late 1998.”*

Now, that is the reason, why I am highlighting this, is again, the point of  
25 the missile and this is specifically the, the only missiles, being required

9 MARCH 2015

PHASE 2

as the foreign procured item was the surface to surface missile. The other missile was a, a local South African segment. So, that is obviously, there is something, is something valid there. It also shows, proves the expectation was less than, I think, I have said in quantitative  
5 times, it was substantially less than 2.3 or R2.1 billion. But, again, it was left at R2.6 billion. Again, on the next page, my page, page 8, right at the top, it says GFC, ADS informed that BAFO is unacceptable and given until the 26<sup>th</sup> of May to respond to our concerns. So, that is what I am going to be, be addressing in these documents that hopefully  
10 Advocate Sello was going to get for us quite shortly. But, if I then come again to the second bullet point on that page, we come again to, to combat suite and I will just give myself a break there.

ADV SIBEKO: This part of the presentation that deals with the combat suite, relates to something that you have already given evidence about.  
15 Is that correct?

DR YOUNG: Sorry, may I ask you to repeat that?

ADV SIBEKO: Switch off, thank you. I am saying this aspect of the discussion, in this report, dealing with the combat suite, provides for the evidence that you have already given before the Commission, regarding  
20 the price and so, of the combat suite.

DR YOUNG: Yes. I have already addressed the evidence in general. But, I am not repeating myself. There might be repetition, but there are, there are specific aspects or items that are not being repeated that I am addressing. Because I am not doing this for the sake of repetition or  
25 emphasis here, it is, it is the deed that, unfortunately, that is also

9 MARCH 2015

PHASE 2

unfortunately the title of one of the books, the devil is in the detail.

ADV SIBEKO: I see that, I think, in the, in the third bullet, under the discussion of the combat suite, there is something about the Dassault data base, now being offered in place of C Square I Square. Could you  
5 just tell us about, what is being set out there?

DR YOUNG: Yes. I am going to mention that, because I, that is exactly the situation and here we are seeing it in documentary form, form. So, it is kind of a proof. But, starting at the top, the bullet point there, ADS response was to R2.634 billion. Now, that is, where we were  
10 before, was close to the R3 billion. So, it is the two letters that would address the, the price coming down to R2.634 billion. It is so important of how that was achieved. Okay. So, offer to reduce by R330 million. A large amount still outstanding, e.g. errors in calculating ADS same price, just for errors, especially on missile. Now, that is, that is quite an  
15 important thing, errors at this stage of the BAFO, of, of coming to an acceptable price. We are not talking about, you know, rands or even millions of rands here. We are talking of hundreds of millions of rands. A very important point is to show that, I talked about the conduct of ADS and Thomson. But, you will see, in the, in the regularity or otherwise of  
20 this process, which is a terms of reference for this Commission. How the price was calculated. Here they talk about the Thomson Marconi sonar, exceeds R80 million. We will discuss this issue today. I think, I am going to show you a, a spreadsheet of the final amounts, where that price of the, of the Thomson Marconi sonar is more like R160 million. I  
25 will actually show the letter, from Thomson Marconi sonar, to ADS,

9 MARCH 2015

PHASE 2

where it puts that in graphic perspective of how these prices were actually, how can I say it politely. It is probably impossible, so I will leave it at that. If I may, if I carry on at the, you call it Dassault, it is Dassault, pronunciation is obviously important. The Dassault, my  
5 French is not good, but the data bus from Dassault now offered is, as you say in place of the C Square I Square bus. I have mentioned before, Dassault bus got onto the, somehow onto the record in, in April, but without being costed. So, so, at that point in time the IMS was the, the selected one, or the chosen one. Clearly it is the issue of risk,  
10 priced, risk driven price is what has caused the Dassault data bus to, to now being offered. But, importantly, here, it is being offered, without there being any formal basis therefore. As it graphically states here, on the 27<sup>th</sup> of May, the Project Team is still waiting for its specification and the architecture indications, before this can be deemed acceptable.  
15 Now, I will come to, quite shortly, hopefully, is only about two weeks later, on the 3<sup>rd</sup> or 4<sup>th</sup> of June, are the people from Dassault, actually Detexis in the country, to have a work group with the, a subset of the Joint Protect Team, to discuss these so-called specifications and the system architecture implications. There is a whole report that comes,  
20 that comes out of that process, in June. I can say, at this point, because I do not, I know it is a discovered document, it is certainly in the discovery schedule. But, strangely, that the specification, this document, this presentation refers to full, full specification. The specification for the data bus was only written for its first time, on the  
25 26<sup>th</sup> of June. That is one month later, after this and in fact, even more

9 MARCH 2015

PHASE 2

and slightly offensively to me, that the specification is for the information management system. But, to me, as an expert in system engineering, system acquisition, at least, at a certain level that it had, having been now, replaced the IMS, which was a child had been fed for seven to 5 eight years, had been through seven to eight years of development, had it gone through formal base lining, at its own level and, and the combat suite level. It existed that you could touch it. It was not a technology demonstrator. You could come and kick the tyres, as they say, in our laboratories in Cape Town. You could take photographs of it. It was not 10 just paper. That it could be replaced by something as immature as the, the Dassault data bus, are what words, loose me at the moment is amazing. But, even at this stage, the last point is:

*“Contractual responsibly visibly subsystems not precisely defined or acceptable, awaiting further input from GFC.”*

15 So, I think, that puts it in the context of, of the DOD and the acquisition authorities at that point in time.

ADV SIBEKO: Now, in the following pages, there are figures supplied, with regard to, what I believe to be a best and final offer that was submitted, by ADS. Is there anything that turns on those schedules that 20 appear on the pages, following what you have been looking at?

DR YOUNG: Okay. I am looking at page, I have got a highlight on page 9 and you will have a, some kind of indicator. Okay. I have a highlight on page 9. But, I think, you have got something, a pdf mark around local elements of the combat suite. Is that, is that the one you 25 want, you are referring to? Okay. To try and speed things up, on the

9 MARCH 2015

PHASE 2

ninth page of my document, there is a page that starts off with ship, ship platform and it has got some price, a price, R3.74 billion. Underneath it is, is the price of the local elements of the combat suite.

ADV SIBEKO: That is, that is the page I was referring to, page 981.

5 DR YOUNG: Yes, indeed. Indeed, these prices are, these figures are extremely indicative and meaningful in every sense of the word. If we are thing about now, a R2.6 billion combat suite, which is R700 million higher than the, the accepted, even adjusted upwards, ceiling price. We can see how this was derived. That is the one aspect. The other one is  
10 even, if I may use the term, Mickey Mouse, the Mickey Mouse element of the IMS, it is not Mickey Mouse functioning wise, but it is Mickey Mouse cost wise, by comparison. We are talking about our price of R38 million, ADS's price of R44 million, after it added, added on its price. That is excluding VAT. Even if you took the R89 million, I would say the  
15 R77 million, excluding the IMS study and then you take 10 or R12 million out, to get to the R89 million, okay, if it pales, these back price, pales into insignificance of these other prices. I will venture an opinion, right now, or when I come to more detail of why this all happened. If we look at the, the tables of the local elements, the element, starting with  
20 main contractor, African Defence Systems, actually with, what this supply was not only ADS. It was, this, and there is a, there is a detailed spreadsheet, which will certainly look at other and I do not want to belabour the point or even anybody's time. But, this is the, the main contract that is here, the consortium with this, no, I can say is it not  
25 consortium. It is the, it is the amalgam of ADS and Thomson. There is

9 MARCH 2015

PHASE 2

a, and this first element is the main contract of responsibility. I presume there are both project management and system engineering aspects in here. But, it comes to a, an amount of no less than R234 million. The next point, system integration and this more graphically shown by the, 5 by the spreadsheet that is relevant to this point, of R187 million. So, a, if you put those prices together, it comes to, I think, well over R400 million. What that, that is the cost of adding ADS and Thomson's new partner, Thomson, of doing this. Now, it is important to compare, where the, the DOD was expecting, we talked about price expectations, where 10 those expectations were coming from. Okay. There, in the letter there is a point, regarding project management. But, that this is certainly is due to project management. But, system engineering and the project management, together, should probably have come to no more than R150 million. I know, because I was involved in this. We will also come 15 to the BAE [indistinct] ASM feed, where I was addressing this point at combat suite level, okay, in a different context. But, I was certainly very, very familiar, with, where prices lay. So, I am not, I am not saying this, purely from a third party view point. I was involved in this process, not this particular process, but related very, or directly related to it. So, here 20 we have the total amounts of main contractor, integration and integration, a grand total of more than R400 million. And integration statement of another R119 million, quite what that was, I do not know. The combat management system, a total of R335 million and you will see, from the documents, the record, in fact, it might have, might be a 25 previous presentation to the Project Control Board minutes, when they

9 MARCH 2015

PHASE 2

were ventilating the, the why's. The cost of the combat management system that had been base lined, from Altech Defence Systems, which, which made up the R1.4 billion, adjusted upwards one, was R90 million, or R95 million, at one particular, that, for the combat management, that

5 jumped to no less than R335 million. The other prices are for the true, local contents. They are, they are large amounts of money, like the surface to air missile there is a big chunk, R332 million and the other big local thing was the tracker, the tracker statement of R280 million. These are certainly big amounts and these are amounts, including, including

10 risk. I cannot venture much of an opinion of how fair all those were. But, I, I certainly, to be want again, of a suitable word, the figures that I have just ventilated now, are, I am incredulous as to their magnitude. A very, another important point, foreign elements. We will come to the sonar system a little later. Previously, they were talking about it being

15 over R80 million. I think, that was questioning, why it was over R80 million. But, I am just looking, we, I am speaking to the documents, as legal people say. But, here it is R120 million. R120 million is a lot more than R80 million. It is 50 per cent more. There is certainly a document I have to refers it to, I think, R160 million. It could have come down. I do

20 not know. But, here is something also, and pointing to this price of the anti-ship missile, or the ship, the surface to surface missile of R390 million. Now, even that, is a lot less than if one was taking into account the full original scope of supply should have been 32 missile rounds and rounds do not fly off the missile, by themselves. They fly out of the

25 missile launcher, which has to be, I think, it is two per system and each

9 MARCH 2015

PHASE 2

missile launcher is controlled by a missile launch system. So, there is on board equipment. So, if you could and from my own estimates in the BAE SEMA, ASM endeavour, the price of that was more like the region of R500 million. So, but at this stage, I am pretty sure that, to reduce the price there is a lot of documentary evidence, showing the instructions, to reduce the total number of missile rounds from 32 to down to 17. That is 16 for the ships plus what, the one round for system qualification. I am pretty sure that the R390 million is a reduction already from the full, the full scope of, of 32 rounds. But, there are documents that show the amount paid. I might be wrong. I might be wrong. I do not know, if I am 100 per cent sure. But, it looks as though the total amount paid for the missile system was R181 million. So, it would seem to me, is that this, the reduction of this price, the R390 million, which looks to me, like a reasonable amount was reduced by some mechanism and which I want to address, in that particular theme. Okay. Carrying on, if we go down to the next point, which is the next page, I think, starting surface to surface missile evaluation. I think, this is where the decision actually was made, in this particular Project Control Board meeting, or at least, ja, formalised and then formally ratified at the next Project, the special Project Control Board meeting, on the 8<sup>th</sup> of June. Anyway, we can go down to the recordal of it. It looks as though three missiles were evaluated. It specifically says, now, this is an important point. It might be small, well, detailed, but they selected, the missile was the Aero Speciale MM40, block 2. That was the block 2 missile, rather than the block 1 missile, was approved. Come to that

9 MARCH 2015

PHASE 2

point, where I am, I should prove that only nine block 2 missiles were actually acquired. Certainly in this phase of the project, or the first phase, mainly other ones were required, as I do not know. I think, seven block 1 missiles were acquired. But, here, we can see a formal  
5 part of the process, the block 2. The ANF is, I think, a reference to the advanced naval missile. I think that that is an acronym for a, a French acronym. I am not going to try and speak French, because I cannot. But, it, it was called the ANF at this particular phase. But, my understanding is that it actually became the block 3, which the French  
10 Navy uses and various other Navies use. But, certainly, the South African Navy does not use. So, the approval of the ANF, it is certainly in a, it never filtered down to this, to any relevance of the South African Navy.

ADV SIBEKO: If you turn to the next page 983, there is a discussion  
15 there, with regard to the SSM selection. Does anything turn on that?

DR YOUNG: Yes. Indeed, it does. Here is a, the one table I am looking at, it might not be the next page, but it is, but it is, I can see tables on my pages. We have, ja, we, we know that, from looking above, which I will not go back to, two, only two missiles were  
20 evaluated, the MM 40, block 2, with the emphasis on block 2 and the Swedish missile from the SAAB Company, RBS 15 mark three. I am also fairly familiar with this, having been a member of the, the team and especially of the designer advisory committee. I was certainly familiar with the, the preferred missile, at that stage, would certainly be the RBS  
25 15 mark two. I do know that at the end of the day, it turned out more

9 MARCH 2015

PHASE 2

expensive. I certainly have no [indistinct] with that. But, in terms of the, of the actual evaluation, there are relevant, the, the price, ja, again, okay, it emphasizes my point. This is not a price for five, for 32 missiles, which would have come to R500 million. And, sorry, the 32 missiles  
5 were included in the original base line, which would have cost R1.9 billion, I believe. I will be frank to say, it is still difficult for me to find that to, to accept how one would fit R500 million into R1.9 billion. But, be that as it may, there was R395 million, R396 million, set aside for R17 million, MM 40 block 2 missiles, at this stage. We, we could, we could,  
10 then, leading up to, to my analysis of this, it is interesting, because once one starts to quote optional extras and then, anybody who is involved in this business knows, it is not a nice thing for a managing direct to have to do, because it gives away ones prices. This is exactly what this, this does. The Naval Board directed the Project Team to, to get an option of  
15 a price, for the balance of those missiles, of 20 missiles. ADS themselves had provided the prices for just an extra three. That gives away the price of the missiles. Each missile R52 million, for three missiles and that certainly gives away two things, an indication of the price, per missile. It also gives away, in the next point, of how much  
20 ADS was marking up, because as it says, our calculation for extra three missiles from Aero Speciale, should have been R40 million, so ADS and Thomson were, were quoting their own mark ups and margins. I am not sure if the R40 million included some kind of a block that was the big cost that is for sure. So, ADS is certainly using their exalted position in  
25 the scheme of things to quote basically, whatever they like. As I have

9 MARCH 2015

PHASE 2

said before, on Friday, they could quote whatever they like, because they are exclusive. There is no competition. Of course, where there is no competition, you quote whatever you like. So, that is a, a very important point as well, regarding the, the theme of the surface to  
5 surface missile.

ADV SIBEKO: Now, I see in the presentation, which is annexure to the minutes of the PC Board meeting of 27 May 1999 that quite a number of issues are discussed there. In, the discussions by the PCB or the presentation, which is annexed to the minute, what appears to be  
10 conspicuous, by its absence is any reference to the C Square I Square Systems, IMS. There was a decision or had a decision been taken, by this time, to exclude that system?

DR YOUNG: Well, that is something that actually, nobody in the whole world knows. Even my, my legal team when we were doing our  
15 damages action, particulars of claim, were not sure, when the decision was made. But, by inference, one has to look at where whether one calls it a low water mark, or a high water mark. But, somewhere between April of this year and we are now talking about May and August, a decision was made. But, when it was made, is not actually  
20 too clear. Whether it was a business decision, or a technical decision, again, is not clear. Because, and I can say that, because it is, as you correctly point out, it is not discussed in this minutes of this meeting. By this stage, the best and final offer had actually been presented, three days before and discussed at great, great length, the day before the two  
25 letters that were the 26<sup>th</sup>. We will come to it. But, to put it in perspective,

9 MARCH 2015

PHASE 2

I think, it is at this meeting that there is a request for a decision making PCB. I think, that that is, I saw that I did not, yes, it is on my page 5. So, it is the minutes, page 5 and it says next Project Control Board meeting. I will stop, to give, allow people to get to the right place.

5 ADV SIBEKO: Would that be page, now the page left, has amongst others the paragraph 23, schedule, which is our page 977.

DR YOUNG: It certainly, what is correct is that item 23, the schedule is, is the first heading on that page.

10 ADV SIBEKO: Mmm. Which, which line are you referring specifically, on this page?

DR YOUNG: I am referring to the last numbered point, which is the fourth last line. It is entitled, the heading, the next Project Control Board meeting, item 31, the next meeting will be:

15 *“Decision making PCB of Project Wills and Project Sitron, would take place at 11:00, the 4<sup>th</sup> of June in the Zippo conference room, on the seventh floor of the Armscor building.”*

Now, of those indicated here, as the 4<sup>th</sup> of June, it actually happened on the 8<sup>th</sup> of June and relevant to the point you made, in your question, precipitating my answer, is there is no reference to the IMS, whatsoever, in that, in that decision making PCB, nor in this one. I cannot actually even quite remember, whether the CMS is, but we will come to that. But, certainly, my memory is that the CMS was selected. There was not any competition. So, it was not ventilated in the meeting. In the meeting itself, of the 8<sup>th</sup> of June, it is only, the minutes itself, only record  
20  
25 decisions, where there was competition. Where there was not

9 MARCH 2015

PHASE 2

competition, the CEO of Armscor was directed to write a letter, he certainly wrote a letter, where it had the items that, when, when there was no competition, it, it had those details. So, I would say, from a technical point of view, the decision had been made, to select the  
5 Tavitec combat management system, at level three. In it, in itself, it included the data bus, from Detexis and that is not why it does not even need to be addressed at the Project Control Board meeting, whether it is this meeting on the 27<sup>th</sup> of May, or the next one, which is the decision making Project Control Board meeting.

10 ADV SIBEKO: And then the, Dr Young, you kept on making references to a letter of the 26<sup>th</sup> of May 1999 ...[intervene]

CHAIRPERSON: I am sorry, Advocate Sibeko, are we done with the PCB meeting minutes? Are you done with it?

ADV SIBEKO: Yes. It is ...[intervene]

15 CHAIRPERSON: Thank you.

ADV SIBEKO: During the course of your testimony and before we adjourned, you intended to refer to a letter of 26 May 1999, dealing with the best and final offer, that was delivered on 24 May. Do you recall that?

20 DR YOUNG: I certainly do, yes.

ADV SIBEKO: Now, in, in respect of that discussion, is it correct that there, there are two letters that you need to refer to? I believe copies of those letters have been made. But, for purposes of identifying those letters, can I ask you to go to your document 0446?

25 DR YOUNG: Yes. That is the ...[intervene]

9 MARCH 2015

PHASE 2

ADV SIBEKO: There, there is a file that I believe has just been placed before the Commissioners and I believe colleagues on our side. It is file seven. Chair, I believe 11 copies of this file have been made. I believe further copies are being fetched from, do you have these? Do you have  
5 the file, Chair? I, I believe further copies will be made available, during, in a short while. These will be RMY 141 that will be the first letter of 26 May 1999. It appears on page, as from page 2909 of the bundles, file seven. Will you identify this letter for the record please?

DR YOUNG: Yes. It is a discovered document, with the index number  
10 DT 1-0446.pdf.

ADV SIBEKO: Is that the letter? Yes. Now, the heading of this letter is response to questions arising from BAFO, delivered on 24<sup>th</sup> May 1999. It is on the ADS letterhead ...[intervene]

DR YOUNG: Oh. Yes. May I ask you, what is the RMY reference  
15 here? 131, 90 something, I think.

ADV SIBEKO: It is RMY 141.

DR YOUNG: 141?

ADV SIBEKO: Yes.

DR YOUNG: Alright. Would you like me to peruse this letter? Okay.  
20 As, as we know, we did refer briefly, this morning to the best and final offer, which is the, the document referred to, just above this. But, the one that we were finishing off this morning, is, and it is, and ended it off on Friday, was the letter from the, the DOD from Captain Kamerman, the angry, the angry letter, regarding the, the unacceptable prices, of ADS,  
25 in their best and final offer. So, this first letter, there are two dated the

9 MARCH 2015

PHASE 2

same, the same day. Obviously, there was a meeting going on and it refers to a meeting. There were interactions going on, this particular day. This is a response to, to the DOD's letter. So, I think, probably, item eight is where we need to start. Okay. Item eight is number the heading combat suite part. Item eight says, combat suite subcontracting model. I think, the, the letter, DOD letter, it said that the, the model was unacceptable, because it offered nothing, in terms of a price reduction. Basically, what he said, what ADS, Pierre Moynot is, I think, is the author of this letter. He says:

10       *"Our offer of the 7<sup>th</sup> of April 1999 was based on all South African equipment, being supplied in accordance with the principals, now established, as part c. Our offer, submitted on the 24<sup>th</sup> of May 1999, grouped the following seven subsystems, subcontracts into part b."*

So, here is, what I, proof of what I said is things had been part c, including the IMS and now, and now the IMS going into, into part b. It had been part c and now it was going to part b. It includes the following subsystems, the bus, the VSS, which is a video switching system, the TMS, which I think, is a tilt measuring system, the ship communication system. I do not know what else here is, the electronic warfare system and the TDS. So, for whatever reason, these are now being included in part b. Let us stop for a second.

ADV SIBEKO: An explanation is provided on the overleaf of that document, as to why that happened. Would you like to deal with that? It is on page 2910 of the document.

25 DR YOUNG: Yes. This is, obviously, something I have read before.

9 MARCH 2015

PHASE 2

But, it was not relevant to me. But, the explanation is the shift is based on our understanding that the SA Navy wished ADS to assume responsibility for the performance of the equipment delivered, in terms of the subcontracts:

5       *"We shall now address, just our offer to adjust our offer to include all South African equipment as part c."*

And, sorry, it is not, to be quite honest, it is not making 100 per cent sense to me. But, be that as it may, it is a, unfortunately, that is water under the bridge now.

10    ADV SIBEKO:       Might I just remind you, Dr Young, that when you speak, if you could speak into the mike. It seems the recorder is struggling to pick your voice up.

DR YOUNG:       Okay. I will carry on. If I address the, the point of project management, I think, it gets addressed in slightly more numerical  
15 terms in the next letter. But, this is certainly a good point of introductions. I expressed my own view, or if I may say, semi-expert view, of the price of project management and this is simply something related to that. Item nine deals with the project management and certainly shows that it was, it was an important point. It says:

20       *"Numerous discussions have been held with the Project Team, in respect of programme management. The most recent of these was at Mount Edgecombe, involved Fritz Nortjè, Chirstian Gramouw and Daniel Clide. The latter are senior managers of, of Thomson CSF. During these discussions, ADS openly detailed its costs, down to the level of  
25 number of people [indistinct] and material, both in South Africa and*

9 MARCH 2015

PHASE 2

*Europe. These discussions did not result in ADS considering that they could reduce the price of this item, due to the following:*

*The price is based on Thomson CSF/ADS's extensive experience on numerous programmes of similar magnitude, to the number of*  
5 *subcontracts to be managed, has increased substantially, since our original offer, made in February, March of 1999."*

ADV SIBEKO: A discussion of the IMS appears at item 30, which is at page 2911 of that document. Would you like to take us through that?

DR YOUNG: Yes. We have talked about that, the, the price of R77  
10 million. But, item 13 says:

*"The information management system, the current price of R77 million was based on a formal best and final offer, received from CCII Systems, dated the 14<sup>th</sup> of April 1999. The increase in price is due to an increase in price, quoted by CCII and the moving of IMS from part c to part b of*  
15 *the contract and specific terms and conditions in the CCII offered."*

Now, I am afraid to say, there is a couple of serious problems that I have with this. The first, as we have seen from the angry letter, from Captain Kamerman, in this particular context, he actually talks about it, being a wrong price, it was for five systems. That is 100 per cent correct. I  
20 think, what is also incorrect is what ADS is saying here, that our prices, from the 14<sup>th</sup> of April best and final offer. I think that that is untrue. I certainly would be able to prove it. But, I think, that the R77 million was derived from a price, that we issued to ADS, in, on the 22<sup>nd</sup> of December 1998, when they increased the scope of supply and the technical base  
25 line. It is what I said earlier, it seems as though they did not even

9 MARCH 2015

PHASE 2

bother. Although they bothered to send us a best and final offer and in, in April and we responded and we reduced our price accordingly, because they also reduced the scope of supply, which allowed us to reduce our price, from the excluding VAT price from, I think it was R48 million, down to R38 million. But, they leave in the price. Now, quite why they did this, whether inadvertent, I do not know. But, they certainly had plenty of opportunity and they, you know, any contractor at level four, worth its, it is worth its their salt, here, managing basically the future of its subcontractors is not entitled to be making mistakes of this, of this magnitude. So, it is difficult for me to believe that it was made by mistake. But, so, they made two mistakes, the price of R77 million, as well as the reference to the 14<sup>th</sup> of April. Again, within a second, not bullet point, but dash point, it proves my point about the IMS, having being moved from part c to part b. To just re-emphasize or take in a second and that is because clearly, the IMS was moved out of the combat suite level, into the combat management system level, which then became clearly, a Thomson, ADS part of the scope of supply. Here is something that I alluded to, unfortunately is a small point. Again, I think, ADS told them nonsense here, because from what I can remember, is, when you talk about prices, you talk about prices being, with respect to that base line, base line being in financial prevailing terms and the base line term was the May 1998 offer. Our prices for, at this stage, only the IMS, but the NDSS were based on rate of exchange. I think, that they took it upon themselves here, to again, baldly just refer to specific terms and conditions. I think, what they are referring to is the

9 MARCH 2015

PHASE 2

fact that we used their, their initial rate of exchange and to keep the base line the same, we kept the same. But, I think, that is what they are referring to. But, again, of course, it has more grist to the mill, of why we are not being selected.

5 **ADV SIBEKO:** Is it correct then, that you never offered the price of R77 million for the IMS?

**DR YOUNG:** That is for sure. I, there is a spreadsheet that we are not going to go back, unless we have to. But, the price of R77 million, which I think, excludes VAT, basically was derived from our 22<sup>nd</sup> of  
10 December price, which was R48 million, excluding VAT and then ADS was allowed to add on some mark ups for maybe margins, because there is different, difference there and for one of the things was for integrated logistics support, being executed at system level, rather than subsystem level. So, its price, from what I can remember, came to  
15 something it, like in the 50, I am working from memory now. Then, at that stage their first iteration of risk took it to R77 million. In fact, it might have been their, their last iteration of risk. But, it did not include the next point, which is item 14, was to IMS risk study. So, but anyway, the R77 million is their price, excluding the risk study, but our, coming from our  
20 price, but with many, many additions on top of that. In fact, on my own, I do not think, I have made marks on my own digital version, which I do not think you have on the version in front of you. I have here, in front of me, just to put it in perspective, yes, indeed, in fact, there might even be another mistake on ADS here. Because I have got here, my proposal  
25 047, dated the 15<sup>th</sup> of December 1998, we went through that on Friday,

9 MARCH 2015

PHASE 2

was for R44.8 million, including VAT. The, my proposal 049, dated the 22<sup>nd</sup>, that was a week later, which I have just talked to now, was the one for R54.9 million, including VAT. My notes to myself here, was that the second one, at least, it was in respect of ADS's request for quotation, it was for five systems, which should have been for four. That is the mistake, which Admiral Kamerman talks about, in his letter and the fifth system was what I call, what they brought up. For the very first time, the IQA reference set, which is for ADS's own integration test bed, other than the, what would have been the, Navy's or DOD's integration test bed, which is called the ITB. So, alright, then that got excluded. So, the price, including VAT went down, in my next proposal, the formal the proposal, which I do not think we have, we have addressed, was my proposal 051, dated the 27<sup>th</sup> of the 1<sup>st</sup> of 1999. It was for R42.6 million, including VAT. In my notes here, it is included lots of nix, as a network interface [indistinct]. Those are for the changed technical base line, which is for the FDDI, information management system, also being included, as part of the Tavitec combat management system. That is why that price went up. Then, the final price, was not, as they say here, in, on the, on the BAFO received from CCII, it is, they have actually mentioned here, CCII/PROP/51 dated the 14<sup>th</sup> of April. No such thing exists. It actually was my PROP, 051, properly proposal, dated the 14<sup>th</sup> of May, not of April, of May. Okay. So, this was just two weeks before. Why that is necessary, because of course, there would have been no request for best, for best final offer, leading to a, to a best and final offer on the, on the 14<sup>th</sup> of April. So, when the analysis of my evidence gets

9 MARCH 2015

PHASE 2

done, it will be confusing, unless I put that on the record. It is not that I am trying to belabour the point and take time. But, it was based on a best request, request for best and final offer. It think, it was done the very day before, the 13<sup>th</sup> of May, with a response back the date, for the

5 very next day. Clearly, that gave us a very short time, but we did respond, with a VAT inclusive price of R44 million, R44.3 million. Okay. So, here we have our R44.3, excluding VAT, which I think, it points to R38 million odd. I am not going to try the arithmetic, right now, of transforming the R77 million, plus the R12 million for that IMS study.

10 Now, if I may at this point, briefly, briefly address the Chairperson's point to me, on Friday? He said, well, you know, if there is any other, in case that there is a nominated contractor and on the basis of price, the two parties cannot become ad idem, I think, in contract law, there is, there is a principal of a meeting of the minds, of the two parties, in the, in the,

15 fundamentally in the contract, of course, the contract price. My response is sure, if there was, if, if the two parties could not agree. But, there was no agreement from our side. This was pretty much a one way street. We being asked for offers and we responding with offers, and we were asked for best and final offers and we responding with and the

20 base line, just changing, without our certain reason why. So, I think, you know, it proves my point, is that ADS had no valid ground to say that our price is unacceptable. They just did what they liked, in terms of moving out price. Even when our price went down, their price went upwards. Maybe it was a mistake. But, it does not matter. In what the Navy,

25 sorry, the DOD was confronted with, was our price going up and it never

9 MARCH 2015

PHASE 2

went down. Because, at this stage, the IMS was, was excluded and was replaced, by something else.

ADV SIBEKO: Alright. In item 15 on the next page of that letter, there is a discussion on the system management system, the SMS.

5 DR YOUNG: Sorry, I want to come to that point. But, just to show you, the IMS study, item 14, there is another reduction, but ADS confirms, its best and final quote as reduction. Now, as we see, from the angry letter, that the price was indicated as, as an acceptable price of R10 million. I know that this price was R12 million, because you get,  
10 we know, about the R89.255 million and if one does the arithmetic between R89.255 million and the R77.157 million, as indicated above, that is about R12 million. So, that was being priced for the IMS study. Sorry, to have interrupted you.

ADV SIBEKO: You, you can then deal with my issue, relating to this,  
15 the SMS on, that is item 15, on page 2912.

DR YOUNG: Yes. We have dealt with this before. So, I do not think that I need to belabour the point, because I, in fact, now that I look at it, I think, that I have not only got this in my witness statement, but I have read it into the record as well. But, the second part of that item 15 is  
20 probably the nub. It is despite, we having entered into a competitive situation, price situation, with ADS, ADS being, then being selected, based on the price of its R29.647 million. What I did not say this morning, not only did that include the R12.07 million addition as margin, rather than that, to mark up, there being a fundamental difference. But,  
25 ADS being allowed, more or less, 24 hours later, to reduce their price

9 MARCH 2015

PHASE 2

from R30 million odd, based on their mistake, so they said, of inadvertently omitting to remove the price, of something, related to the VSS. So, then, VSS is the video switching system, is they removed the ILS, as the integrating, integrated logistics support, part of that. So, 5 they were allowed to remove that, and that allowed their price, to come down marginally below ours. Only below ours, with the margin added on. But, here, lo and behold just to say that a, a month later, they have already addressed a mistake, so they say, by removing something. Now, they are adding on something, related to the VSS. They say that 10 this capability was removed from the offer, on the 16<sup>th</sup>, as it was not requested in the RFO, at the time. ADS was not aware of the scope of the VSS offer, made by Tarly's. Now, I, I, if I have seen anything, it is certainly not clear in my mind, as we speak. I am sorry to say. How many years later is it, 16 years later? But, it, what is in front of us, on 15 the paper, they must have, at least, had the opportunity of seeing the, the so-called, let us not say it is a mistake, because I doubt it was, the issue of the VLS, ILS. But, in all this time, why was there no ventilation from either party, regarding the ability, of being able to control the video, from the combat suite consoles. Now, we even, we even know from 20 Friday that the whole thing, the consoles, was a point, because it is one of the points, of which we got excluded. In fact, there, there is whole issue of us, offering out own VSS consoles, as well as spares, for the ADS console, so the whole thing of console. So, I am sorry to say that nothing makes sense to me here. I think this is another graphic point of 25 ADS, being able to do whatever it liked and now, adding something onto

9 MARCH 2015

PHASE 2

its price. Okay. Fortunately, the, to give them credit, the DODT was wide awake in this one and the angry letter demands reversion of the price, down to the R29.6 million. But, I think, I have made my point, properly, relevantly and hopefully adequately that things were going on

5 here. Maybe, I need, also need to say, when they say here, that ADS is not aware of the scope of the ADS offer, made by Tarly's, it is very, very difficult, being polite, to, to accept that this can be true. The VSS had been part of the scope that the, the base line scope of the combat suite, for several years now. Now, Tarly's was not Tarly's that had become,

10 that became Tarly's from Thomson CFS of Thit. Tarly's was a privately owned company, not dissimilar to ours, called Tarly's Advance Systems, by somebody, Dr Bennie Coetzer and I know him quite well and he, he was part of the team. How can it be possible that the ADS could have quoted on the VSS, as we know that they did, on the 16<sup>th</sup>? Or actually

15 the 15<sup>th</sup>, modified by the 16<sup>th</sup>, without having a, not only a price, but a scope of supply. But, we, we were able to quote, into that and never, ever, ever seen the detail of that, between the RFQ coming to us, submitting a quote two days later, on the 15<sup>th</sup>, when I and my number two were overseas in Germany, sitting actually at Blohm and Voss in

20 Hamburg, at the time. We were able to that. If one looks at our quote, you can see how comprehensive that was, if I may say, it is relevant to point out that GFC, who administered the quote, provided a, a specification, well let us say, a statement of work, that was very adequate, for the purpose of providing of a quote. So, for them to say,

25 baldly, of course, but they do not say why, ADS was not aware of the

9 MARCH 2015

PHASE 2

scope of the VSS offer, made by Tarly's Advanced Systems is pretty, putting it politely, difficult for me to believe, even, even 16 years later.

ADV SIBEKO: And the next page, item 20, page 2913, a discussion is set out there, regarding the navigation distribution system, which also  
5 impacts on your company. Could you just take us through please?

DR YOUNG: Yes. Fortunately, this is the only one that we won. This was won in a straight out competitive situation, exactly the same time as the SMS, which I have just been discussing at some length here. But just to show, I have talked about the conduct of ADS and its pricing. It  
10 goes to the point I made, in response to the Chairman's point as well. Item 20, navigation distribution system and we had gone through a process here, initiated by the DOD in the form of the Joint Project Team, administered by the German Frigate Consortium, ADS coming back with competitive quotes for a system management system and a navigation  
15 distribution system. Now, remember there was no such thing. When I say remember, maybe I have not said it in this. There was no such thing in the combat suite base line, at this stage, of a navigation distribution system in NDS. This was a new thing. There was a thing, called a navigation system, I think the NESS and I that is what ADS had quoted  
20 on. But, what we were doing, what we were quoting on here was the navigation distribution system. We had a specific reduced scope of supply. Again, in two days, I was overseas, we managed to put in a competitive bid, which we won, a price of R12 million, as against ADS's price of R18 million for the same thing, same scope of supply. Put that  
25 in perspective of pricing, why the price of the combat suite was so high?

9 MARCH 2015

PHASE 2

Why start it off at R3.9 billion and went to 3.3 and three and 2.9 and 2.7 and 2.6? It is because in the navigation system, it started off at, I think at R48 million and come down to R20 million odd. That is why we were asked for a competitive bid. But, this is graphic, to show how we, we

5 were gotten down to and then suddenly, we see their response in a best and final offer stage. I am going to come to come to the smallish point soon, coming from the chief of acquisitions, regarding best and final offers. So, we have now, effectively won, won this. But, it says here, under navigation distribution system the current offer from CCII, in my

10 proposal CCII prop 55, dated 14<sup>th</sup> April. Now, that was the correct date, not the, not the IMS one, which was the 14<sup>th</sup> of May. That is the one, where we, where we had the wrong document. It has still, still got the right got the right RMI reference. We do not have to look at it:

*"It does not comply our terms and conditions."*

15 And here they say:

*"Base date May 1998, US dollar 5.5."*

And where they got the 5.5, I think this is another, another typographic error, because our original dollar was 5.05 in May 1998. As far as I remember, by December 1998, which was the new base line, it was

20 5.98. Again, this is slightly less bald than the last one. I will give credit for that. But, it requires some financial adjustment, prior to being integrating our offer. Now, I am sorry to say, when we quote rates of exchange we quite the foreign content, the imported content, all of that stuff. How long does it take an arithmetician, with the experience of

25 ADS to get figures onto the, onto the correct base line? So, to use that,

9 MARCH 2015

PHASE 2

as an excuse, actually beggars belief. It would take me less than 15 seconds to do that, to do the arithmetic of it. But, that is being used, as an excuse to reintroduce this ADS's system. Now, I am not talking about this navigation system in SS, but now this new thing, called a navigation distribution system, which it had quoted R18 million odd. I am not sure. It does not look like as though there is a price here. But, anyway it also says:

*"A risk assessment needs to be carried out, in order to add relevant provisions, if these are required. The lack of time to properly assess financial and technical implications resulted in the CCII System not being included in the offer, submitted on the 24<sup>th</sup> of April. Consequently, this offer included the ADS navigation distribution system."*

Now, we talked about risk and importance of risk. We also talked about the whole issue of C Square I Square, being evaluated for risk in the cost and risk audits. We talked about my Phd and Msc, being the reason why I would not add on one brass cent for risk. Now, here we are, all this time later, in, whether it is April or whether it is May 1999, we are far beyond the stages of my IMS quotes. You are talking about the NDS now. Now, I, if a risk provision was so important and how ADS here. Now, they suddenly, somebody has to carry out a risk assessment. But, we have won this, on a competitive quoting process, fair and transparent. So fair and so transparent, now, that our prices are now known, in the realm of at least ADS, of the GFC and the Joint Project Team. But, if I may ask, where in that request for quote, for either the SMS or the NDS, which was put together by the JPT and

9 MARCH 2015

PHASE 2

administered by the GFC, if risk was so important, why were we not asked for risk, a risk provision in brass sense, not added on? So, I am afraid to say, by inference, by logic that point was also simple, unadulterated nonsense. We were never asked to provide for risk then, just as we were not asked, asked to provide explicitly for risk now, that this is first part of the nonsense. The second part of the nonsense is based on risk ADS take it upon themselves to exclude the NDS, which is now being chosen, by the GFC, based upon the election or selection of the joint project team, acting on behalf of the Department of Defence, based on this thing of risk. So, we say, how even, the, even now, 16 years later, it actually baffles my brain of how this could have happened.

ADV SIBEKO: There is another letter of that same day, also written on the ADS letterhead. It is your document 0448 and our document RMY 142, still on that same bundle of documents as from page 2916. Do you have that document?

DR YOUNG: Yes. Indeed, I do have. I want to come to that. There is just one final point, which is probably, hopefully a pre-cursor for this letter. The very, very final point, made on the letter we have just addressed, now been addressing, it is item 30, it says outstanding information. I presume the outstanding information had to be outstanding from either ADS's previous best and final offer of the 24<sup>th</sup> or what is addressed in the JPT's letter. Because it cannot be outstanding, because it says here:

*"See attached schedule of Aero Speciale options."*

Now, it is clear that various options were offered, by ADS, Thomson and

9 MARCH 2015

PHASE 2

the DOD selected at least one of those options. But, not only has that been tippexed out, of this letter, to me. But, the cost analysis that is referred to in item 30a is not there, nor the schedule of Aero Speciale, which obviously the [indistinct] is not being provided. So, that is being  
5 redacted or severed in much more vigorous way, not providing anything at all. So, I am saying that, because it also is part of the reason why my analysis is maybe not as complete as I, as I would like to be.

ADV SIBEKO: Now, that will bring us to the, the next letter of the same day, from ADS, which refers to a follow up meeting that was held in,  
10 according to that letter, earlier that morning, at the Secretariat of Defence. Now, there are a couple of issues that arise from that letter. But, the first of which is, which appears at paragraph 1, which says:

*“The whole of the South African sub-segment contractors, excluding the IMS are shifted back into part c.”*

15 Does this accord with what you have testified to, in respect of the earlier letter?

DR YOUNG: Yes. Clearly, for some reasons, not clear to me why, certain of the subsystems, specifically, I can see why some of them are, like the VSS, the video switching system, I can see why they included  
20 them in, in part b, because they are linked to the rest of the combat suite, but in the electronic warfare system, which seemed to me. But, anyway, it is clear now that one of the mechanisms, by which price reductions were gained, to get it down this acceptable level, from R2.9 billion to R2.6 billion was excluding all of those South African systems,  
25 excluding the IMS. I do not need to tell you why. I have already said

9 MARCH 2015

PHASE 2

why, because the IMS was no longer part of the combat suite. It was part of the combat management system.

ADV SIBEKO: Further down, at paragraph 3 of that letter, it is recorded that the bus used, is now the Dassault electronic, Dassault  
5 electronic. How does that compare with the spec that was provided, or the architecture that was required, to be complied with?

DR YOUNG: Oh. Yes. It is an important point, which I am going to address now. But, I do not want to leave out point 2. But, clearly now, as I have said before, the IMS had, the C Square I Square IMS was no  
10 longer part of the, let us call it the offered base line. Unfortunately, there are many base lines. This is the offered one. To emphasize my point, it, the Dassault electronic Disserto data bus was there, as part of the CMS. But, I think, the, the handwritten note is, is in the, is in your version of document. Am I, am I correct in saying that?

15 ADV SIBEKO: Yes.

DR YOUNG: Okay. Now, I am not a handwriting expert. But, clearly, this is written in handwriting and it was written at that time, because it says:

*“Full info by Friday afternoon.”*

20 Now, that is telling it, itself. But, something tells me that this was written, by somebody in the project team, who was evaluating this. I suppose I could spend, I, I will put forward names, who could be. I will not do so, unless I get asked. But, anyway, the question he has written down asked:

25 *“How does it relate to our spec, or to the CS architecture?”*

9 MARCH 2015

PHASE 2

So, the very asking of the question, begets the question, begets the bigger question, on what basis can that be included in the, you know, in the offer, where, when it is unknown of how it is affecting the combat suite architecture and its spec, being, the, our spec can only refer to the, the SA Navy's combat suite. It is called the combat suite requirements specification. By nickname it is a, it is a URS, although the term user does not appear, I think in it. But, it is a URS, the 18<sup>th</sup> of December 1998, which is our technical spec and its own sub-serving spec, the platform requirement spec. So, the question is being asked, how does it relate to our specs. So, I would say in terms of whether it is system engineering methodology, whether it is Modac, whether it is 147 and I know what those things mean, in terms of risk management, in terms of, of base line management. In terms of formulation, formulations of first order, second order and third order valuations. Now, this would certainly be a third order evaluation, is conformance to the spec. That is all unknown, at this stage. So, it is being offered, by ADS and Thomson, based on price, which is based on risk. But, it is not based on a technical base line. It is not based on any kind of formal evaluation. The methodology is whatsoever. Even though full info had to be full info, provided by [indistinct] that could possibly have taken place. Because, as I have said before, the work group to evaluate the Detaxis bus, that was the Dassault electronic one, could only have happened at the very start, on the 3<sup>rd</sup> and 4<sup>th</sup> of June. It came out of an internal report, of a JPT report, or a sub JPT report after that, this specification. Now, how does, how do you compare something with a higher level

9 MARCH 2015

PHASE 2

spec, if you have got a level three, or a level two, defining the combat suite at level four? How can you do such an evaluation, if it does not yet have a spec? I see that spec for the Dassault electronic bus only came out for the first draft, draft one, draft zero, draft, draft on the 26<sup>th</sup> of June.

5 So, all of this points, handwriting or otherwise to the shakiest acquisition proceedings that I have ever seen in my life.

ADV SIBEKO: You mentioned paragraph 2 of that letter, being an important aspect that you needed to address, with regard to guarantees or payment bonds, performance bonds, et cetera.

10 DR YOUNG: Alright. I can only see what you can see, is what the document says, in English. What it says in English is no provision has to be taken. Now, this Pierre Moynot's English in his, no provision has been taken in terms of guarantees, repayment bond, performance bond, or any bond whatsoever. Now, we talked a bit. You asked me the  
15 question, yourself, Advocate Sibeko, about performance bond, performance guarantees. Now, that was in the IMS level. I was also asked to provide a performance guarantee, or a bond, for the entire combat suite, or at least, that is according to Lu Swann. Now, here, we are saying, whether, whether, it is exactly what it meant, one only can do  
20 a full blown forensic review. But, at least, it points to it is that price, to get down to that price of R2.50 billion or whatever they mentioned in the previous letter, or, or the R2.599 billion, they actually had to remove those things. So, the whole basis, on which ADS is being selected, as this level, this part b entity, taking responsibility for risk, but how do you  
25 take responsibility for risk? You do it in normally in terms of a

9 MARCH 2015

PHASE 2

performance guarantee or a performance bond, or some, they talk about performance bond, or any bond, whatsoever, repayment bond. I suppose they could, there were some, the DIP, everybody hopefully knows the, there were DIP guarantees. But, he is talking about any  
5 bond, in terms of guarantee. So, that is, it now seems to be an excluded. I have not analysed all several thousand pages of the umbrella agreements. So, I do not know, exactly what that, I am just talking about this letter, by which the price, the price was gotten down to the hand, the arm wrestling or handshaking price of R2.599 billion for  
10 the combat suite. But, if we look a bit further down, under four, they have reduced the price, by 15 mega rands, R15 million on the bonds. So, they removed the bonds to get the price down. That is an important point. I think, we probably covered point two and three sufficiently for the moment, before we come to point four.

15 ADV SIBEKO: Let us get to point four and deal with it.

DR YOUNG: The, we, we are probably repeating the foreign procured items, like Aero Speciale, SSM and the Thomson [indistinct]. Now, they again, attract some price premium, for some peace of mind of the DOD, being part of Thomson, ADS's scope of suppliers, specifically  
20 Thomsons, about being part of part b. That was the previous offer base line. Now, suddenly again, reducing the comfort, they are changing to part c, again, which of course, removes that element of risk, from ADS and Thomson and it transfers that risk back to into the ball park of the Navy. I do not think, we actually, oh, yes, we did not actually ventilate  
25 that point. But, going, going back not too far, point one, where they talk

9 MARCH 2015

PHASE 2

about how this has been shifted back into part c, it says here in, the, the simple written English. Thus the possible consequences of deficiencies in terms of performances, or time schedule would be for the SAN. So, it looks as though, every single thing, in terms of risk, the reality of it, is the only thing that ADS was taking responsibility was for the combat management system, which included the IMS. Of course, they would have probably taken risk for the entire integrated system. But, certainly, by the time they had accepted these part c systems, for integration of the combat suite, they would have made sure that there were no residual risks that could, that could be passed on to themselves. I am now getting a bit complicated, but the, just what I have said, the English meaning is the true situation.

ADV SIBEKO: We have, you have spoken about quite a few reductions in the scope of work, which has resulted, or which finally resulted in the reduction of the overall price of the combat suite. These include things like your programme management costs. In the line of the first page of that document, you are talking about, there appears also be to an overall rebate of some R90 million as a gesture of goodwill. Are you able to comment on that?

DR YOUNG: Yes. I am, but if I may, we just have to address the point of, just above that, of, of the surface to surface missile again. Unfortunately, I have to do so and as I have said before, is I have to work, by circumstantial evidence, because of reductions. You can see another reduction in this point. You can see three reductions in front of you. But, they all together do at least, point in one direction, or at least,

9 MARCH 2015

PHASE 2

and I cannot tell you exactly to the end point, to where they go to. But, at least the direction is there. But, reduction in the selling price, of the surface to surface missile, implies a reduction of the combat suite price, including VAT and CV. I do not actually know what CV is, maybe I am  
5 being stupid, but I do not know what CV is. I do not know what it means. Anyway, they have now got a, they have, they have identified specifically, as I went before, the price of the system is not just the R20 million per missile price, for 32 missiles, reduced to 17. It is the launcher as well. Each ship has got two launchers and, I think, the  
10 missile launch control console, on board, which costs money. It also has to be integrated and it costs money. So, they have, here, they have got a price, which has been deducted out for the launch and, for the life of me, I have not been able to work out the details. Anyway, that say the [indistinct] it is quite a lot of money. I do not think they would be  
15 bothered, if this, the residual price was anything like the, the saving price. So, clearly it was a lot of money, because that is, they have reduced it, to save R37 million. In terms of the missiles themselves, as I mentioned before, there was a table, which, in my mind, at very least, included different quantities. We talked about a figure of three. We  
20 talked about a figure of 17. We talked about a figure of 20. We have talked about a figure of 32. So, that is obviously, some of the options. But, I have got a little bit of arithmetic in front of me, which you do not have. But, my request, I said, SSM saved equals 101. A question to myself is how? I for the life of me do not know exactly how. But,  
25 certainly, the fact that some was saved is true. The next two points,

9 MARCH 2015

PHASE 2

probably, probably, the, the last bullet point, the connectorisation, I am not going to go into it. It is a small amount in the greater scheme of things, but I do not, I cannot add too much. But, the sonar is something, because it is, there is documentary proof of it. I have talked about a figure that the JPT was referring to, R80 million and then an actual price of R120 million. I thought I saw a reference to R180 million. Here they have been able to save R25 million. So, and unfortunately, I have to speculate it, but it is a valid speculation, because, and you will see why, when I get to the particular Thomson Marconi Soni document, is a price, a price has been reduced, which can only mean that the prices were, were inflated. But, let us say, on the same point, my, it would emphasize my point on programme management. As I have said before, I have not, well, I cannot, in my minds eye, remember a particular breakdown of system, well, there are three items. There is contractor responsibility. There is programme management. There is system integration. Okay. They all kind of lump together in those figures that I addressed before. But, the point here, I think, is fairly relevant:

*“Besides, rather than arguing about whether the programme manager is too expensive or any other item, we are in a position to offer a final rebate overall, of R90 million, as a gesture of goodwill, from our mother company, to close the deal. This figure is based on the assumption that we shall be able to negotiate substantial savings on the subcontractors.”*

Now, that is quite an interesting point of view from, from my perspective, at least, as a subcontractor. So, they were going to screw us, to get

9 MARCH 2015

PHASE 2

down to something acceptable to them. Anyway, they have now come down from, whatever it was, the 2.9 or 2.7, to a figure, as I have mentioned before, slightly above 2.6, which was R2.634 billion. In my understanding, from what was told to me and I have been on the inside, 5 is that indeed, this was the figure that they were offered. But, the final figure that was accepted was actually R2.599 billion. Now, head office, the mother company did indeed, offer this down. But, Pierre Moynot actually decided to offer a little bit more. He offered another R35 million more, to get it down to R2.599 billion, which is where they closed the 10 deal. But, that was actually done, without authorisation of the mother company. Indeed, I know, because there were negotiations, with ADS after this, when we were told, by, our, the people, who hated us so much, that Pierre Moynot had offered too low a price and now they were going to try and squeeze us for price. But, basically, the end price, the 15 end game was not based on quantitative methods. It was just done on qualitative methods of just getting down to a price, to sign the deal. That is exactly what happened.

ADV SIBEKO: When we come back, after lunch, which I will deal with the assessment that was undertaken by the project team of the two 20 systems, which resulted in a technical report, being prepared. Will you prepare for that, that ...[intervene]

DR YOUNG: Yes. I am ready.

ADV SIBEKO: Chair, would be a convenient time to take the lunch break?

25 CHAIRPERSON: Have you finished the point that he was making

9 MARCH 2015

PHASE 2

now? I think, maybe let us finish this point, before we adjourn for lunch.

ADV SIBEKO: I think, I think the point has been covered and  
...[intervene]

CHAIRPERSON: The point has been covered?

5 ADV SIBEKO: Yes.

CHAIRPERSON: So, you, okay.

DR YOUNG: If, if I may, there, there is just one very small point, I  
think, I would like to ...[intervene]

CHAIRPERSON: Just hold on. We will adjourn until two o'clock.

10 Thank you.

**(COMMISSION ADJOURNS)**

15

20

25

9 MARCH 2015

PHASE 2

**(COMMISSION RESUMES)**

DR YOUNG: (s.u.o.)

ADV SIBEKO: Dr Young surely before the adjournment there is a small part that you indicated that you wanted to address in that document

5 RMY142. Do you recall that?

DR YOUNG: Yes, I can.

ADV SIBEKO: Would you like to briefly deal with that matter?

DR YOUNG: It is a smallish point but it does lead to a later theme also it also leads to what other witnesses had said before this Commission in  
10 this particular case. The Chief of Acquisitions, Chippy Shaik.

Looking at the document here in front of me where I have which I have highlighted here. For quite a while now we have been addressing ADS's best and final offer. The reason mainly at this stage bring up this point is to illustrate what my view is how the DoD conducted itself with  
15 ADS whose own conduct are in my view is fairly unacceptable and unprofessional regarding the formulation of both the combat suite price as to be used in the prices of nominated sub contractors. We are talking about the best and final offer.

The best and final offer of ADS is requested by best and final offer of  
20 the DoD and it gets interrogated a number of times. We have just gone through both the letters both from DoD's responses and the responses back to that. With the commandants[?] I think is the right word reductions in price from an unacceptable one to a final or obviously acceptable one.

25 Just to see what was the view of the chief of acquisitions. This is

9 MARCH 2015

PHASE 2

something that he expressed in 2001 which is not long after the contract the Corvette Contract were signed in December 1999 and certainly long long before these. Anyway I am going to quote here from here. We have the document. Maybe it will take your time... we are going to  
5 come to this document in a completely different context as well. It is my document, it is a discovered document with an index number, DT1-0858.PDF.

It has been recently copied and distributed this morning with what I believe which is a secondary index of RMY150.

10 ADV SIBEKO: That RMY150 appears at page 2965 of file 7.

DR YOUNG: It is on page 17 of that document. It is a 72 page document. What that document is for the record, it is a formal response from Chippy Shaik as Chief of Acquisitions to questions, formal questions put to him on 26 September 2001 in the name of Lionel van  
15 Tonder who was the Project Leader acting on behalf of the Auditor General in the JRT Report.

They issued a whole bunch of formal questions which is the first part of the document and the second part are his answers. I do not think I have every single thing because I got this under Pie Act which I got the  
20 reduced record and I think there was some cherry picking of what I got and what I did not get. Be that as it may at this particular point I am just addressing on particular point.

Point 5.14, or paragraph 5.14 this is in different sections. There is multiple instances of the same paragraphs. It is on my page 17

25 ADV SIBEKO: On our pages it is 2982.

9 MARCH 2015

PHASE 2

DR YOUNG: Anyway what he said is that the main contractor made a best and final offer with the IMS at a certain price is he was to accept full responsibility for it. The second part is the state does not interrogate the pricing of a main contractors best and final offer.

5 That is only two sentences. It is pregnant with various relevant things. The first is that I am unaware that there is a best and final offer for the IMS. I think that the best and final offer has already taken out the IMS and included the competitive contender at that stage. The second part of that sentence is, IMS had a certain price if he was to  
10 accept for responsibility for it.

What is important is that we never, we asked to provide performance guarantee or anything like that but certainly that is relevant in the context of the ADS. Whether ADS was a main contractor or not I do not know but the whole issue of price and risk driven price is relevant there.  
15 The more important point is how the state dealt with ADS and entertained it. It said that he state does not interrogate the pricing of the main contractor's best and final offer. I think I have fairly well proven that, that is nonsense.

The ADS had plenty of opportunities to come up with various offers. I  
20 think that there were at least four. Even at the best and final offer stage on 26 sorry 24 May there was still plenty of negotiating to allow this exclusive non competitive entity called ADS Thomson to actually get down to a price that was acceptable in terms of the affordability study figure and for some unknown reason acceptable to all and some people.  
25 It certainly show that the state interrogated and entertained a

9 MARCH 2015

PHASE 2

methodology over the next couple of days to allow ADS Thomson to get down to a price, which I think is important to say is R700 million more than the ceiling price.

ADV SIBEKO: Was that the small point you wanted to make just before  
5 that adjournment?

DR YOUNG: Yes to me that is a very small point.

ADV SIBEKO: Can we now go to your statement at paragraph 231  
where you deal with the evaluation that was performed by the technical  
assessment team of the what you referred to as the various or  
10 respective merits of CCII System's IMS. Also the Detexis System which  
we deal with as from paragraph 231 of your statement to the end of 237  
of your statement. Also with the assistance of your DTI0456 which is our  
RMY41 and that appears in file 3 of the bundles as from page 995.

DR YOUNG: Thank you.

15 ADV SIBEKO: Now page 995 is a document entitled, Technical  
Evaluation of the Detexis Bus Report on the Diacerto Databus Proposed  
for the SAM for Project Sitron. Do you have the document?

DR YOUNG: I do.

ADV SIBEKO: Your statement deals with some of the issues that arise  
20 from that. Can you take us through that?

DR YOUNG: I am just mulling over whether to address my witness  
statement and the documents because my witness statement traverses  
much of what the document does. Anyway what I said by way of  
introduction as I have said before.

25 By this stage the BAFO's the best and final offers are not including

9 MARCH 2015

PHASE 2

the IMS anymore. The offer baseline has changed as far back as 24 May. Only replacing the baseline IMS with this new brand new entity the Diacerto Databus from Detexis. It is only on 3<sup>rd</sup> and 4 June which is more or less a week or two later is the first time that Armscor and the DoD in this SAN actually get to grips with what has been offered here in replacement.

The technical assessment was undertaken on instruction of the project Chief Executive that is then Captain Karmerman and the Program Manager Chris Nortjè of Armscor. There was a small team representing well we would say the Department of Defence which includes the Navy but the Navy of uniformed Navy Officers were Captain Heinrich Nick Marais then Commander Ian Fowler who was the Project Engineer and Lieutenant Commander Andrew Cothill the more junior Combat Suite Engineer and Captain Marais was actually a communication specialists and that is why he was called into this little group to assist.

Armscor is represented by the Combat Suite Program Manager, acquisition manager and from the let us say the preferred supplier at this stage German Frigate Consortium they called in a combat suite specialist Dr Wolfgang Vogel and who was a manager of the Combat System Department. Also represented were Detexis hopefully my pronunciation of their names will be more correct Jean Mark Perrier and Laurent Royer were present.

If I may quickly switch to the document itself. It talks about ADS were represented by Mr Kevin O'Neil, Athol McClain and Dave Hall who were

9 MARCH 2015

PHASE 2

all system engineers and Dave was a software engineer or specialist. So a point I can make at this stage. Quite a lot of people were there but we even knew this or I ever knew about this happening until a year or two later I am not sure exactly when. I was long long afterwards, so we  
5 were certainly never given any opportunity of staging our possession. Of course Detexis were able to state their position in response to our IMS but we were not given an opportunity of responding of how the Detexis Databus at that stage did or did not meet IMS requirements or the combat suite requirements.

10 So certainly in terms of administrative justice or administrative action that is a deficient process in my view.

ADV SIBEKO: Once the evaluation team had conducted the exercise of evaluating the two systems it prepared a report in which recall certain findings were recorded. Take us through those.

15 DR YOUNG: That is indeed correct. I think my witness statement really just has a summary of it which is hopefully correct for the record but probably more appropriate at this stage is to actually look the document itself.

ADV SIBEKO: You will see on page 995 which is page 1 of that  
20 document at paragraph 1.4 is set out the process that was followed and if you turn the next page at 996 it has preliminary evaluation reports and then on the next page of 997 following is recorded just about the middle of that page.

*"In terms of the above points raised it is also pertinent to list the  
25 problems foreseen with the current IMS base architecture,"*

9 MARCH 2015

PHASE 2

Further down it says:

*“From a technical point of view the SC project team proposes that the current architecture based on the IMS be retained for the following reasons.”*

5       Would you like to discuss these?

DR YOUNG: Yes clearly that is the summary and the reasons are those set out. Basically I think as it says at a sort of a SWOT. Strengths; weaknesses; opportunity and threats analyses is the traditional term for that but basically it is kind of a comparative analyses probably better  
10       described as a pro’s and con’s rather than a SWOT, nevertheless.

      It goes through the pro’s and con’s of the various not the various well the two different options. So if we are looking at the first point starting at 1, what is most interesting for me is that certainly the initial proposal from Detexis is to use normal copper, in fact the twister [indistinct]  
15       version of copper with a connection of this combat suite.

      Also their recordal of the point that EMI Suite. that means electromagnetic interference. Electromagnetic capability problems would be problematic. I do not want to take you back there because it is getting slightly technical. It is certainly relevant.

20       ADV SIBEKO: The part of the document that you are reading appears at page 996 of the report. That is discussion under preliminary evaluation report. Is that where you are now?

DR YOUNG: That is correct, yes.

ADV SIBEKO: You can proceed.

25       DR YOUNG: We did not traverse this when we went through the

9 MARCH 2015

PHASE 2

previous couple of letters. Certainly for the record there is a recordal there that as this document sets out Thomson had already said that they would not be accepting any responsibility there and if I may say so, as an expert in combat system integration I say so myself this is a particularly risky point. We would be talking about risk.

From a technical point of view it is one of the riskiest things in the whole integration of any complex system especially involving Wireless and one of the reasons for this specification right at the beginning of fibre optics and we went through that letter I think probably on day 1. The project Diodon Letter where the program manager Pierre Meiring records Armscor directive to the Chief of the Navy the use of fibre optic systems and therefore the technology FDDI which the IMS used.

Here Detexis is not even offering to use optic let alone FDDI. Of course there were not only great risk issues which we have alluded to in those previous letter but cost issues as well as responsibility issues. The next point is 2 it says that he LAN (local area network) and implementation of the architecture is very simple and static. There is no automatic reconfiguration and after two faults the LAN can be considered to be down. That the reference to the words simple, very simple and static is certainly not positive light at all.

The whole reasoning for this if I may say so sophisticated architecture of the IMS it precisely catered for that it was not so simple and it was not static, it was dynamic. Now unfortunately having a dynamic system does add to competitive. This is precisely, precisely what Armscor had instructed us to do. They said design an IMS we are going back to 93

9 MARCH 2015

PHASE 2

and 94. Design and IMS that nobody needs control over this. If a part of it fails it reconfigures itself. It is not static it is dynamic. In fact our network can actually not in its entirety can actually it is called Quad Redundant which means that you can actually have at least three or  
5 many four failures before there is an entire system failure.

So Detexis certainly, in fact I would say in most scenarios, one failure not two failures for sure 100% for sure. If one of those SI-FU's which is part of the network fails, this network has failed that is for sure. Not merely from a failure on board in normal operation or battle damage but  
10 the whole reason for the IMS in the combat suite is for upgrade and development and fit for but not with at least over next 15 years of the life of the combat suite.

IMS is designed so that you can add on or take out any sub system without any other sub system even needing to be told about it. So that  
15 is why it is dynamic. So that is certainly is a mayor, mayor let us say the flaw is not so much the right word but deficiency of the Diacerto Databus to the IMS.

Okay. Our system is based on the US Navy SAFENET Standard, SAFENET 2 which uses FDDI which is a 100 megabits per second.  
20 Here the existing system only was based on a very old version of Ethernet the 10 megabit that was definitely if not 80's, 70's and to get it up the same performance level as the IMS would have to be upgraded to a 100 megabits per second. So it was not... anyway it was not so much that it could not be upgraded. It did not it also show that it had to  
25 go through development where as IMS was a long had been there since

9 MARCH 2015

PHASE 2

1993.

These Diacerto boxes and this is hardware do not yet exist. It needs to be developed and qualified. I mean that in itself applies money and risk. Timescale risk as well as money risk. A huge risk as far as the client, the state is concerned is this issue of intellectual property and propriety software. That was now instead of the IMS had been developed especially for Project Diodon and future surface combatance[?] where all of the software would be owned at least co-owned but certainly own the country by Armscor here we have proprietary software by a foreign country. That is a risk.

We talked about political risk at one stage and that could be considered as a political risk and certainly this reference to deterministic Ethernet also goes against the baseline, let us call it the negotiation baseline not so much the contract baseline but the existing baseline is the IMS had to be based on COTS that means Commercial of the Shelf Technologies. So here we have another diversion of a stipulated requirement.

The future implications of it which reply not to acquisition risk but long term risk of ownership being relied heavily of the supply of the future support. Also that importantly despite allegations to the contrary so here they were not even believing what Thomson and ADS were saying. I certainly would support that point completely.

ADV SIBEKO: I see that on that page and on the next page they have a whole number of technical deficiencies that pointed out. I suppose technicality is a matter that we do not follow that greatly. With regard to

9 MARCH 2015

PHASE 2

the conclusions reached on these findings made especially from a technical point of view, that appears at page 997. What conclusions and the basis of the conclusions were made in this regard?

DR YOUNG: If I understand you correctly the final conclusion is that the architecture based on the IMS is retained. I think that is the fundamental conclusion if that is what you are referring too.

ADV SIBEKO: If I may ask you to turn to page 998 it is where you find the conclusion at paragraph 1.6

DR YOUNG: Could you just take me to the correct paragraph?

10 ADV SIBEKO: Paragraph 1.6 there is a heading conclusion there. Do you see that. This is after the listing of the technical aspects with regard to the [indistinct] team that is what is proposed with regard to architecture.

DR YOUNG: 116 confuse me because I am sitting around, my paragraphs are 241 unless I have jumped somewhere else?

ADV SIBEKO: 1.6 of the document that you were reading.

DR YOUNG: Sorry about that.

ADV SIBEKO: Have you found the page?

DR YOUNG: Yes, I am at 1.6 conclusions, yes.

20 ADV SIBEKO: Now you would have seen that just before conclusion there are certain technical attributes that are recorded with regard to the IMS these are referred at paragraphs 239, 240 and 241 of your statement . I am interested in 1.6 which records the conclusion in the following terms:

25 *"After the above report had been completed it was provided to the*

9 MARCH 2015

PHASE 2

*project officers and program under cover of a memorandum. While the report clearly shows a preference for CCII option it must be stated that the evaluation undertaken was purely of a technical nature and the technical potential of the CCII is preferred for all of reasons listed in*

5 *section 1.5.*

*The Detexis option was selected purely on financial constraints placed on the project. The risk as determined by the main contracted translated into financial penalties for the CCII option. The Databus is a critical sub system to the overall performance of the combat suite of the*

10 *SAN Patrol Corevette. As such from a technical point of view the main contractor has to assume the responsibility for ensuring that it works.”*

That is the end of that paragraph that deals with the conclusion. From what I see in this conclusion it does appear that from a technical perspective the CCII option was the one preferred by the SA Navy, is

15 that correct?

DR YOUNG: That would appear so yes from this report.

ADV SIBEKO: That preference would have come about as a result of the points listed as from 1 to 15 just above the paragraph D on the procurement, is that correct?

20 DR YOUNG: That is correct, yes.

ADV SIBEKO: The Detexis option however in terms of this conclusion was selected purely as this document says on financial constraints placed on the project?

DR YOUNG: Yes.

25 ADV SIBEKO: The risk as determined by the contractor also translated

9 MARCH 2015

PHASE 2

to financial penalties for the option for the CCII option. I think this is what we talked about this morning. Is that anything else you would like to add to this?

DR YOUNG: Yes. It is important also to know that this is the second  
5 version of this so-called report. In fact the things that you have actually read out here some of them at least were added on to the version quite a lot later. I can certainly can find it and I am pretty sure in my discovery schedule which is computerised I can find it quite quickly. These things were added on. You could see by at least the project  
10 executive at a later stage.

In fact it says that the above report had been completed and it was provided to the project officer and program, I think they mean program manager. they left out a word a memorandum. So the original version of it does not a refer as far as I can remember or certainly not to the sub  
15 or added on post facto reasoning of the Detexis option being selected purely because of financial constraints.

The initial report was submitted not long after the meeting of 3 and 4 June by the people who we mentioned at the beginning. Also effectively that report was effectively overridden by the project executive. We will  
20 say that it would seem to me that is that the report itself was never tabled at the JPT, the joint project team. It just went to the project executive being the project officer in the program manager. It was not in concurrence of the whole project team.

What was clearly overridden was the recommendation based in the  
25 first version of the report. This one came several weeks or several

9 MARCH 2015

PHASE 2

months later. I can find that out if I get questioned on this. More so is that the conclusion being based on financial constraints. Maybe I am being (what is the right word) accused of belabouring the points of price and risk. What I had tried to do this morning is go through the process  
5 of pricing and risking and in relationship to, to show that it was in polite terms, a patent process. It was concocted. It was not *bona fide*.

You know it was basically negotiating from a point of strength on the part of ADS and Thomson because they were exclusive it was not competitive. We know that if there had been competition other  
10 competitors might have won not only could have I know would have and was not only BAE because [indistinct] Atlas and Cell C Tech would have taken a different view to this about the risk of the IMS.

So that is the thing of financial constraints. I think probably it is not my wording it was selected on the issue of financial constraints. I know  
15 not long before lunch we went down to the final RS [indistinct] and negotiation and I know the very end we were talking about reductions in price down to R2.634 billion and which was a special offered by the mother company and then another R35 million reduction.

So we are talking about small amounts of money there. well relatively  
20 small amount of money. In the greater scheme of things of R2.6 billion and total amount of risk of real risk was actually the difference no well not real real risk. Even on ADS's terms the difference between R48 million and R77 million R30 million that is not really, really financial constraints placed on the project when it had been allowed to jump from  
25 a adjusted project ceiling of R1.9 billion to R2.6 billion that is not a really

9 MARCH 2015

PHASE 2

and truly financial constraint. If I may say so. What is the difference the real difference arithmetic difference or whatever between a price of R2.599 and R2.620 to have include our provision.

So I am afraid to say that this thing selected purely on financial constraints placed on the project and the risk as determined by the main contractor translating into financial penalties is overstating it by a magnitude.

ADV SIBEKO: If one have regards to the paragraphs following from 238 where you summarise the findings of the evaluation team and the conclusions which that goes right up to the end of paragraph 243 of your statement. Would that be correct. Just take a moment and see?

DR YOUNG: That is correct yes.

ADV SIBEKO: So part that is set out in the document that you have referred to and what is set out in your paragraph in your statement up to paragraph 243 is there anything else that you would like that you like to add or we can move to the next matter?

DR YOUNG: No I do not want to belabour the point too long. I think it is fairly relevant to note that because it was. I think the chief author. There were two authors with Lewis Mathieson of Armscor and Ian Egan Fowler of the Naval Engineering Bureau. I will say that the notes that were taken were actually taken by Dr Wolfgang Vogel and I think that I have discovered this the notes the handwritten notes were produced by him. I think that I have discovered them.

Lewis Mathieson in data I think at least in his section 28 the transcript of section 28 interview done by the JIT has this document put in front of

9 MARCH 2015

PHASE 2

him and he basically say supersedes what was said and that is point 15.

Now it is:

*“Both Thomson and the GFC recognise that the IMS is a superior product.”*

5 If I may say so myself. It is certainly a better product for all the reason listed in this document. I can tell you having spoken to Dr Vogel I think he is retired now that certainly was his unadulterated opinion as well.

It is superior from so many aspects not only the technology aspects as set out here but in terms of the future life of not only Corvette Combat  
10 Suite but the Corvette itself. It is superior. I have to say that if and when it comes up that the person who wrote this thing Lewis Mathieson said, I think what he says oh, yes this was written but it was only hearsay or something like that. Sorry I do not accept htat.

This as I have I have said is the second iteration of the same report. If  
15 it as hearsay then it should have been removed from this version of the report. I tried to stick with this version the later slightly more content. However I do not believe it is my position that it was merely hearsay. I will say it as an expert unless anybody challenges whether I am expert in Databuses and Combat Suite Integration using fibre optic base led  
20 local area networks. The IMS is definitely a superior product.

I will also go on to say that the DoD and the Navy in particular had actually done themselves a disfavour by choosing a product that is inferior.

ADV SIBEKO: Then one has regard to your statement as from  
25 paragraph 244 up to the end of that discussion at 249. You deal in

9 MARCH 2015

PHASE 2

those paragraphs with the findings as set out in the report. The evaluation report. Do you confirm that?

DR YOUNG: Yes from what I can see in front of me.

ADV SIBEKO: That would then bring us to what you refer too in your  
5 statement as the current view of Armscor regarding the IMS on the one hand and the Detexis on the other hand?

DR YOUNG: It is a very good point. If I may just say under 244 we have not really ventilated this properly. Because just remember in order to present my evidence properly I have to speak of the documents. I could  
10 not write. I just did not have time to write every single word that I wanted to mention and state in these proceedings in this document. It would have been a 1000 pages long as you people are hearing now.

In the baseline the technical baseline which was proposed as we can see on 7 April, I am talking about paragraph 244. The Navy stated in its  
15 letter of the 6 May following that that a hard wired solution is not acceptable to the SAN, architecture as proposed on 7 April. Obviously that is what they want. I am not going to open the document there. What I can say as an expert and I know what the Detexis Bus consist of and I know what the CMS consists off. We have talked about the  
20 navigation distribution system which was actually developed by my company. So my company and me were involved in the day to day and week to week basis with them.

Is that unfortunately we actually talked about a hybrid process a couple of days ago on Friday. Let us call it not so much the Diacerto  
25 Databus but the interconnectivity methodology which is the Databus is

9 MARCH 2015

PHASE 2

not just Ethernet on board the Frigates. It has an Ethernet component within it. Then it has some hard wired links in fact, an Ethernet only connect the local area network only connect the combat management system together.

5 The systems to which has meant the bus are meant to connect are connected by what I mentioned the other day as SIU, system interface units. So the combat management system connect via hard wired links to these ISIFU's if SIFOS and they in turn connect to the sub systems. So there are two hard wired links there. What is worse from a system  
10 architecture and upgradability point of view from a timing point of view. Of every single perspective one can think of technically is that even that tripology[?] was not sufficient to integrate the entire combat suite. I know because my navigation distribution system does it.

There was about another 15 hard wired links keeping this system  
15 together gluing this system together. This morning I mentioned a small thing under the section of system of surface-to-surface missile and the [indistinct] and the combat management system. I know that one of the links that we had to add in especially after we had negotiated the baseline for the navigation distribution system is a special hard wired  
20 link to the surface-to-surface missile.

There are more I think there are 15 all together. It is imperative here which I would have thought was a baseline non negotiable imperative of a hard wired solution is not acceptable to the SAN. In terms of expediency was just dispensed with. There are a multitude of hard  
25 wired links in the system that is on board the Frigates or the Patrol

9 MARCH 2015

PHASE 2

Corvettes to this day as we are speaking right now.

ADV SIBEKO: Perhaps just before we get to the current view of Armscor my attention is just drawn to one document that you sought to rely on which is your DT10321 our RMY42.

5 DR YOUNG: Sorry where do I refer to that which paragraph?

ADV SIBEKO: At the end of paragraph 2.41.2. This is an internal memorandum. This is a document at page 1006 of our papers. It is an internal memorandum I think it with the letter head of African Defence System. Let me know if you have the document with you?

10 DR YOUNG: Yes I certainly do, I have it in front of me and I am very glad that you reminded me of it.

ADV SIBEKO: Is there something to point out just quickly with regard to that document?

DR YOUNG: Unfortunately I cannot do quickly.

15 ADV SIBEKO: Yes you can deal with it then.

DR YOUNG: Okay, Right is a document written by ADS. It is have got an extremely interesting date on it. . 16 December 1998 the reason why it is interesting was important because everybody is old enough to know that, that used to be a public holiday in fact I think it still is.

20 What is quite interesting is the subject line which says meeting between Ducan Howles, Kevin Casey O'Neill and JEG Kamerman. It is interesting and actually relevant from a number of perspectives. This point of hard wire links which is hopefully why this was pointed out to is one of certainly the relevant point in this context that there are others.

25 As the document says the meeting was requested by ADS in order to

9 MARCH 2015

PHASE 2

find out (informally directly from the SAN) what their position was on the question on combat suite architecture with particular reference to proposed databus and the possible use of hard wired links between the trackers and the weapons.

5 Now the date of course here is particularly important. As I mentioned this morning the Detexis Databus only becoming onto the radar semi formally was in April of 1999 where that one spreadsheet I have shown and referred too has a place for the Detexis Databus. I think this is graphic proof of the databus the IMS being work out. I am not quite  
10 sure whether I came to the other document by the Frenchman Olivia Busea who refers, I think we have done that one who refers to the BAe-SEMA architecture protection the Databus of C-Squid I-Squid. Surely this is a follow on from that.

I think that I have marked the section there was says informally  
15 directly from SAN. Now the word informally is fairly indicative of what was happening here. At this stage on 16 December the German Frigate Consortium had already been appointed by the State, let us call it the Government as a preferred supplier. So now the State is going into a negotiation phase with the preferred supplier. The preferred itself has  
20 indicated that it's combat suite supplier is going to be ADS, which is written in this document.

They get elevated to the same level as the GFC. So in my view there was no provision in the MODAC scheme of things for informal discussions of any nature whatsoever between joint project team or the  
25 intergraded project team as existed at this stage. Especially JE

9 MARCH 2015

PHASE 2

Kammerman, Captain Kamerman having a private meeting with Duncan Howles and Kevin O' Neill especially in order to gage not their position but the SAN' it's position with request to the combat suite architecture. That in itself is something of particular importance.

5 Of course they were treading on hallow ground here if I may say treading they were trespassing on hallow ground because this is the baseline. The baseline existed at this stage a databus which was the proposed one which was the IMS. As we can see from what we have just traversed only at the end of May did the Detexis Databus suddenly  
10 pop right onto the radar screen and the IMS one pop right off it. Only after this meeting of 3<sup>rd</sup> and 4<sup>th</sup> June 1999. Here we are going back six months before.

Nevertheless, they are asking the question of hard wired links. This is a very technical thing of the wires and ware force[?]. It is clear that  
15 hard wired links were taboo and yet as I have just said is that is effectively what the final architecture and technology involved. A multitude of hand wired links. I am just gathering my own wits about me here.

ADV SIBEKO: In the next page if perhaps that would not be taken to far  
20 ahead of time there is a discussion page 1007 at paragraph 2 is says, 'Baseline/URS. Is that a matter of interest that you want to talk about?

DR YOUNG: Yes there is a whole lot of interesting things here. Okay if we just go back we can see the context there is referred to an emotional response. There is no emotion in MODAC even in 147 so I think that this  
25 is a pretty graphic illustration of the actual acquisition procedures.

9 MARCH 2015

PHASE 2

The points of contact that would be used. The basis as I have mentioned the other day. The presentation to the Chiefs of Staff and the hot reaction that is an emotion reaction. Here we have more of the same. The emotional response of our planned approached. They go on the two difficulty still remain to be dealt with. I think this probably goes to a lot of what I have been saying. It also goes to Chairperson's point about the meeting of the mind or the contractor and the nominated contractor. You can see graphically in the normal written form of the English is the baseline says:

10 *"The other is that SAFENET 2 standard as indentified in the URS where as we do not plan not plan to use it this should not be a mayor issue since it is not a critical primary requirement but we will have to manage it."*

So it shows that even at this early stage where they have assumed the mantle of combat suite integrated they were only playing games with us. All of those nonsensical things, the request for offer there were four of them. All the time and the effort we took to provide those best and final offers for the IMS with all the [indistinct] stuff they were just playing games with us. As soon as the opportunity arise they were going to use emotional responses and hot reactions and their feedback of their friend SC whomever that might be to get feedback from the Chiefs of Staff.

Here it is in graphical writing on the document that probably nobility other than them ever though would see the light of day.

ADV SIBEKO: At paragraph 6 of that document still on that same page 1007 dealing with competition that is the last sentence there where it

9 MARCH 2015

PHASE 2

says:

*“There is evidence that SA Navy and Armscor are getting fed-up C<sup>2</sup>I<sup>2</sup> for their behaviour.”*

Are you aware of what this was about?

5 DR YOUNG: Oh yes indeed and I am pretty sure that this letter will come up again in the discussion around the points that I have mentioned a couple of time of British Aerospace C<sup>2</sup>I<sup>2</sup> and Tellemat.

Certainly here is an absolute graphic illustration of ADS being on the inside track where they would have got out of the MODAC or even the  
10 147 scheme of things to find out that the project team is very annoyed about the proposed competition from British Aerospace C<sup>2</sup>I<sup>2</sup> and Tellemat. Anyway that is another theme of my witness statement and my evidence in general. We will come to that. It is certainly an indication of ADS illicitly if I may use a polite term being on this inside  
15 track and getting information from people like Johhny’s contact with [indistinct].

If I may say so just as a taster. There is no place whatsoever for the project team whether it is joint or otherwise for getting annoyed for competition because competition is prescribed by the constitution. We  
20 are taking about 1998 the constitution that I know of prescribed a system of acquisition and procurement that included the prescript of competitiveness and transparency of course and fairness and other things as well. That does not include annoyance by a project team.

In fact more so adding risk to [indistinct] is a document written after  
25 this but long before the election of the Diacerto Databus and the de-

9 MARCH 2015

PHASE 2

selection of the IMS from the Chief Executive Officer of Armscor actually instructing the GFC to go out for alternative source of supply that is competition. There are plenty other references to that competitive element including from Chippy Shaik as well. We will come to that particular point under conflict of interests. We will show that the French themselves were instructed by Chippy Shaik that ADS and Thomson no longer have this elevated position because Thomson is now buying ADS and therefore they no longer have this position of being nominated because of C change on the reality of the ground.

5  
10 ADV SIBEKO: Just above that a couple of paragraph above that is a discussion on price. Where they talk about Johnny is still recycling a perceived pool of uncommitted funding. Are you aware what that was about?

DR YOUNG: Yes I was aware. But not quite in this context but they are related to the same thing. At one stage I was actually advised that maybe the risks that would be added on to the IMS price which as we know were a couple of tens of millions could be funded for this very same reason. It was that the R6.001 which had been the absolute non negotiable ceiling price could be increased because of this uncommitted  
15  
20 funding that would allow to be added on this R6.001.

So the answer is yes I was aware of something like this but I was not aware of it also being the basis of how the R6.001 could be escalated to R6.873 which is the final price.

ADV SIBEKO: Is that anything else that you need to add regarding this  
25 document before we get to the discussion of the current view regarding

9 MARCH 2015

PHASE 2

the Databus?

DR YOUNG: Yes maybe this is the right time. I think this is almost the very last paragraph. It looks like 2. It says, C<sup>2</sup>I<sup>2</sup> also [intervenes].

ADV SIBEKO: Is that the paragraph under the heading proposed  
5 actions which is on the last page of that document page 1008?

DR YOUNG: That is correct, yes.

ADV SIBEKO: Yes you can take us through that.

DR YOUNG: I have just made the statement that ADS were just playing games with us and to emphasise that see what they say here:

10 *“Inform them that we are not interested in their proposed version of the MOU and specifically excludes any interaction with combat suite or combat management systems suppliers in competition with us. Continue to engage with them in proposal preparation but with no special status.”*

I think that, that is a fairly polite way of well putting playing games. If  
15 they had not interest they should have rather have put us out of misery right there and then. This their proposed version of the MOU I need to address that. Sure we did have version but we did not initiate that. They actually sent us an MOU to say that if we sign up to this MOU then we will be included in the baseline. In the technical contraction where  
20 the IMS our IMS would be there.

Unfortunately I knew what was brewing because of the BAe-SEMA issue because [indistinct] in 1997. Various companies including BAE and [indistinct] Others and [indistinct] all have been in contact with us and they wanted out IMS. So it was extremely difficult and early stage  
25 to commit myself to exclusivity with ADS. Just think of it. Image if I

9 MARCH 2015

PHASE 2

committed myself to exclusivity but through normal competitive process  
BAE from the UK who is Atlas from Germany or Celsius Tech from  
Sweden and actually won this bid, either directly or through their very  
close contact with the German Frigate Consortium who in fact are the  
5 GFC's traditional suppliers of combat suites. It is not Thomson it is  
Celsius Tech and certainly these are Celsius Tech and other German  
Company.

We could have excluded ourselves by signing an exclusivity  
arrangement with ADS it is just it did not make sense. So I had to  
10 include in my proposed version of the MOU that once a preferred  
supplier for the combat suite then I will sign exclusivity. They threw their  
toys out the cot. When I said that they affectively did what they did here  
is or they just did not go forward with the MOU at that stage.

Which is fair enough if I said they put us out of our misery but I do not  
15 think I like very much what I read in the last sentence is to continue to  
engage with them and proposal preparation wasted our time and energy  
and money but with no special status.

ADV SIBEKO: Now having dealt with all of those finding by the  
evaluating team and the compared Databus from C-Squid I-Squid and  
20 the one proposed by Thomson. Certain conclusions were reached you  
did not participate in the IMS but we do know that in the current project  
certain views are held about what sort of databus if is required. How did  
you become aware of that?

DR YOUNG: Unfortunately it is not quite a current project yet well it is a  
25 current project in terms of acquisition but it is a project that was initiate

9 MARCH 2015

PHASE 2

formally by Armscor's Procurement Secretariat I think on 8 June or July last year. I see the tendered date has just been extended in the last couple of days until June this year. So I am just emphasising the point. It is a current in terms of acquisition. We are a fortunately for me still  
5 surviving this company and we are a formal at least a aspirant I will call it at level 4 the combat suite level and we are registered with Armscor as being an interested bidder or tendered not directly to Armscor because they are tendering at the Ship Drawing Level. Having registered we received correspondence from them let us say on an  
10 hourly basis.

A document that I received and of course unsolicited in other than in respect of just being a registered aspirant was from Armscor's Procurement Secretariat and I have that open in front of me. As we can see. It is an email that is the way that communicate these days.

15 ADV SIBEKO: That document is an email from Armscor's Procurement Secretariat dated 21 August 2014 which was sent at 03:04 pm. It is referred to in the bundles as RMY43. It appears at page 1009. You can proceed Doctor.

DR YOUNG: Okay it is not signed but is sent electronically and on  
20 behalf of the Senior Management Procurement Secretariat. We go back now to mention all the relevant things. I am looking at they do specifically address what they call a demand and surveillance databus which is stipulated in the specification the baseline for this vessel. It is called a Hydro Graphic Survey Vessel which is being required at Project  
25 Hotel one of the newest projects in the Navy. That is a matter of

9 MARCH 2015

PHASE 2

introduction to the point that I wanted to make. Is which is I have paraphrased hopefully correctly regarding. It is basically their response to a another contender who is wanting to make an offer the combat suite and the joint response. I know that the response come jointly from the technical responses might be in the name of Armscor's Procurement Secretariat but the technical responses come from the project team of Armscor and the Navy.

*Their response is that:*

*"It is to be emphasis that it is not foreseen that a SAN a South African Navy Frigate Type Databus Solution will be implemented on board the HGSV that is the Hydro Graphic Survey Vessel. This particular system can be regarded as being obsolete and is certainly not considered to a be a cost effective solution as any competent level 4 system integrator will attest too."*

ADV SIBEKO: The passage that you refer too is it the one coming from the second page of that document which is at top of page 1010?

DR YOUNG: That is correct yes. I need to say for the fullness of the point and necessarily just to add crisp to the mill that is we are only now in 2015. These Frigate got taken into service in 2005 so that is 10 years ago. .They are not even close to their half life upgrade. Not even that close to the mayor upgrade of even the combat suite. If this is a valid position now and it is already obsolete it emphasise the point that I was trying to make when we were ventilating or addressing the Detexis report. It is the long term where the problems is.

A databus is a databus is a databus at the beginning. At the

9 MARCH 2015

PHASE 2

beginning you can put the whole thing together with chewing gum if it will work but that is not the point. It might work for the beginning and it might work for five years or whatever. It might even work while you have those existing sub systems on board. If you are thinking about the

5 long term, OPS [indistinct] Management. LER and fit with [indistinct] system that is where the problem arises. That was why IMS were designed the way that it was designed.

ADV SIBEKO: You say that this statement is an indictment of the Detexis Databus?

10 DR YOUNG: Yes, indeed because the Detexis Databus is sitting on board those four frigates. I think three of them are at Simonstown and one of them is probably outside the De Hoop Nature Reserve on Manoeuvres of the German Navy as we speak.

ADV SIBEKO: That then brings us to the discussion relating to the

15 Corvette Combat Suite System selection. That appears from paragraph 252 of your statement.

DR YOUNG: I am 252 of my statement yes.

ADV SIBEKO: Coupled with paragraph 252 of your statement is the document that you referred to 0489 which you have referred to

20 previously it is our RMY10.

DR YOUNG: That is correct, yes.

ADV SIBEKO: RMY10 is in file 1 at page 131. This was not the indication of the decision regarding the supply and selections that were made by [indistinct]

25 DR YOUNG: That is correct, yes.

9 MARCH 2015

PHASE 2

ADV SIBEKO: You point out in 253 that is the letter did not state that any selection had as yet been made within respect of the databus?

DR YOUNG: That is also correct.

ADV SIBEKO: You mentioned also the price allocated by GFC and ADS  
5 with respect of the MMS of the IMS offer of May 1999. Would you like to take it from there?

DR YOUNG: Sorry I did not quite get that one. Did you say the IPS?

ADV SIBEKO: No I am talking what you refer too in paragraph 254 of the price allocated by GFC and ADS to the IMS and the offer of May  
10 1999. Would you like to take it from there?

DR YOUNG: Yes we addressed that point previously. I am not sure quite how this letter helps me with respect to that point?

ADV SIBEKO: I do notice that if one has regards to paragraph 4 of that you have got an average with regards to the [indistinct] of the databus  
15 as a Category B System and the replacement of CCII Systems that Detexis System. Is there anything else that you need to add?

DR YOUNG: I certainly do want to address that letter a little bit more. I think that we are effectively coming to the next theme which is final contract, after my paragraph 260 in my witness statement.

20 ADV SIBEKO: Would you like to address that now?

DR YOUNG: Yes. I think that we have gone through most of that but I think what I have said under 259 because I basically address the process and if we are mindful of the formal processes of the Defence Acquisitions in terms of MODAC or otherwise I think that I am or it is fair  
25 to say that none of the minutes of any of the bodies showed that they

9 MARCH 2015

PHASE 2

considered any of these the matters regarding the IMS. Either properly or at all.

ADV SIBEKO: Just before we conclude on that section. You mentioned in paragraph 257 that:

5 *Shaik; Kamerman; Swan and Nortjè who participated in the decision making did so despite them having had knowledge of Detexis Databus Report and the conclusions of the evaluation team.”*

DR YOUNG: Yes that is an important point. Of course Kamerman and Nortjè commissioned the report so they would know that, I am working a  
10 little bit from memory now. I am pretty sure that the evidence in the last 15 years indicates that Shaik and Swan were also aware that these are chiefs of service, Shaik being the Chief of Acquisitions and Swan being the Chief Executive Officer of Armscor. What I should have said as we were talking about the Detexis Report.

15 I did say that the report which was commissioned within a sub section, sub section of the JPT, joined project team was never put to the project team. Be that as it may far far more importantly the team sorry the body that actually ended up making the decisions as we have just seen by the document in front of us is the Project Control Board made  
20 decisions. I would say at this point made decision unfortunately I think in terms of MODAC the PCP should not have existed also I would know now many years later that the PCP was not actually a decision making body. It was never formulated to do so.

Nevertheless, it did make decisions. Be that as it may the process  
25 that was followed the PCP was a decision making body because it had

9 MARCH 2015

PHASE 2

the requisite, technical knowledge and experience to do so.

Certainly the level above it the next entity above it was Strategic Office Committee or higher up. They certainly did not have the capability of making these type of decisions. The Detexis Report was never  
5 served in either of its forms, the first of second was never served in front of that committee. It was kept to the project executive. So even the good points being a superior thing and the negative points could never have been know by the Project Control Board in order to make a properly informed decision.

10 ADV SIBEKO: As the process unfolded to after the evaluation of the sub systems and the lateral decisions being taken that brought up the entire process to the conclusion or the signing of the final contracts on or about 1 December 1999 as approved by Cabinet. You deal with that as from paragraph 261 of your statement and with regard to the budgets  
15 approved by Cabinet. I must just paused. Some of this evidence is before the Commission. Is there anything else that you want to add?

DR YOUNG: Yes unfortunately I have to finish addressing the letter which. It is probably sufficient it leads into others. It is better to address it right now. Again in no particular order as we have talked about before  
20 the letter is entitled Project Control Board Decisions.

We talked about the minutes of the Decision Making Project Control Board. Now in the greater scheme of things members of the government and we are coming to that point. You have just mentioned now on the record many times that the government is not involve itself in  
25 sub contracts. It is just all over the place where it is said by Minister

9 MARCH 2015

PHASE 2

Lekota or Irwin or whatever. Here we have documentary proof that the State did make all of these decision.

In respect of the Corvette we have got decisions made, for the Corvette Platform that is why I wanted to address this letter or at least  
5 the second part of it. In the terms of the Combat Suite it was the State that made the decision.

They did the evaluations whether it was the Surface-to-Surface Missile or whether it was the IMS it was a joint project team that made the recommendations. It was the Project Control Board that gratified  
10 that those decisions or made them and passed those up to the high level bodies as far as my view I certainly see a deviation from MODAC here because I cannot see the decisions being passed up through to the AACP and AASB and the AAC. I cannot see that.

I think it seems to me that these decisions basically went straight to  
15 [indistinct]. If I may just address. In the tables attached here is the combat suite. As it said before I was not quite sure if it appeared in the table and this is a reminder of why I am using documents. Not too far down I have highlighted it in a block and the Combat Management System does appear there with the supplier being ADS.

20 ADV SIBEKO: I beg your pardon for interjecting. Are you still referring to that document at RMY10 that is the letter regarding the Project Control Board Decisions regarding the Project Sitron, technical baseline to which is attached several schedules?

DR YOUNG: Indeed that is the letter from Llew Swan.

25 ADV SIBEKO: That is at page 131?

9 MARCH 2015

PHASE 2

DR YOUNG: I am not going to spend too long on this. I just wanted to point that the CMS from ADS of African Defence Systems Thomson is selected in terms of this letter.

ADV SIBEKO: It would assist us if you read out the names in full rather than use the acronyms. We still have not familiarised ourselves with these acronyms.

DR YOUNG: I am sorry about that. About under element and supply at the top the heading of that table. We have under element Combat Management System and we have a supplier as African Defence Systems. As I have mentioned before effectively this was the R335 million system from Thomson-CFS being the Tavitac NT System being modified by African Defence Systems.

It is hard to point out things that do not exist but I will try to do so. Nowhere in there will you see the IMS. Whether it is the one from C-Squid I-Squid or whether it is the one from Detexis you will not see it and that is a clear indication that the IMS was no longer a level 4 system because it was... sorry it was not longer a level 3 system. It was integrated into the combat management system. So the Detexis System is now level 2 it is integrated into Combat Management System and that does not need to be addressed by this table of selections.

We are going onto the next page, Platform and it point that every single element in the entire Corvette Combat Suite as well as Ship Platform were selections of the stats done by the DoD done by the Joint Project Team and recommended to the Project Control Board who formulised those decisions. I am not going to go into all of them. In fact

9 MARCH 2015

PHASE 2

I am going into one of them because that is an introduction point for another theme for the IPMS Simulator but as we see there, unless my eyes are deceiving me the last point is the IPMS Simulator is a sub system and it is allocated to a company called I will try to be exact. C<sup>2</sup>I<sup>2</sup> 5 they probably meant C<sup>2</sup>I<sup>2</sup> or C-Squid I-Squid or CCII Systems PTY (Limited).

ADV SIBEKO: If you turn the page to page 134 it says selected products and supplier ship platform and the it says combat suite. Page 134.

10 DR YOUNG: That is correct, I can see that.

ADV SIBEKO: So if there anyign that you need to add on that?

DR YOUNG: No it is maybe an observation at this point. Is something that I do address and maybe this is a graphical overview. In terms of the overseas we talked about the foreign procured items, the FBI's the 15 previous table were the items either local or where there was not competition as we know there had been competition in respect of the foreign procured items but what is certainly noteworthy is it is in each and every instance there was most instances three way competition at least two way competition. In every single instance a French Company 20 won that competition and as far as my memory is correct even Euro Spacial has got Thomson-CFS shareholding in it. It might not be huge amount or the controlling amount but I think about 10%.

If you look above the word Euro Spacial you will see Thomson and Thomson and Thomson. It is just a documentary indication a point I 25 wish to make.

9 MARCH 2015

PHASE 2

ADV SIBEKO: So it does appear from the name that the indigenisation of the combat suite just fell [indistinct].

DR YOUNG: No that is not what I want to argue with,. However it is needed, The foreign procured items were always foreign procured.

5 Originally in Sitron Phase 1, round 1 the what was the called the Under Surveillance Acquisition Radar was actually going to be uplifted from the Sky Craft. Effectively none of these technologies really existed in this country and in terms of the Defence Review none of them were considered as critical indigenous, technologies or capabilities so it

10 actually was a fair quite fairly in my own expert view ( I am only saying that as a joke) I am not an expert in all of these things. That it was reasonable well in fact were not only reasonable there was no alternative but to acquire these systems from overseas.

What I am saying is interesting. They all acquired from France and

15 they all required affectively from either the same company or the last company Euro Spacial has a shareholding in Euro Spacial.

ADV SIBEKO: Thank you. Are we done with the final contract. Was there anything that you need to add with regard the conclusion of this?

DR YOUNG: A very small point. The Cabinet made the decision on 1

20 December but we come to it. I do not want the record to reflect something wrong. The contract or the umbrella agreements were signed after Cabinet approval on the 1<sup>st</sup> and they were sign on a huge day 3 December. Possibly what I can say I have alluded to before it was not the German Frigate Consortium that signed the umbrella

25 agreement. It was a company it was a party called ESACC here in my

9 MARCH 2015

PHASE 2

paragraph 262. Which stands for European South African Corvette Consortium and it comprised of the three companies making up the German Frigate Consortium. They signed individually as Blohm & Voss. Howaldtswerke Deutsche Werft and Thyssen Rheinstal Technik. Also  
5 African Defence Systems and Thomson-CFS they all signed individually with various members representing the South African Government.

ADV SIBEKO: You then made reference to the budget approved by Cabinet for the acquisition on the Corvettes.

DR YOUNG: That is correct. Under my 2.63 the contract price was  
10 signed at R6.873 billion as opposed to the R6.001 billion that was the ceiling price in December 1998. When I say that it might have been derived from a combination of prices I think we know from platform price in December 1998 and sorry combat suite December 1998 and platform prices April 1998 and the combat suite price was signed as R2.599  
15 billion which is a simple increase of R699 million as against the increased allocation ceiling price of the original combat suite allocation ceiling price of R1.47 which by December 1998 had increased to R1.9 billion.

ADV SIBEKO: When you say in paragraph 264 of your statement that  
20 the budget approved by Cabinet made provision for the use of Detexis System rather than CCII System, IMS. What you you seek to convey by that?

DR YOUNG: Nothing in particular I just think that that would have stressed better but the baseline at that stage. The signing supply,  
25 umbrella agreement supply terms baseline consisted of included the of

9 MARCH 2015

PHASE 2

Detexis System rather than the IMS that would have been a better way of saying that point.

ADV SIBEKO: In the next paragraph you allude to the contributors or what you refer to as the mayor contributors to the price increase of  
5 R699 in the combat suite?

DR YOUNG: That is correct, yes.

ADV SIBEKO: You refer that the end of that paragraph to a document. It is a memorandum it is dated 30 June 1998. It is your DTI0228 and our RMY44. Do you have that document before you?

10 DR YOUNG: Yes, I do.

ADV SIBEKO: That deals with the selection the Tavitac , CMS and also about R350 million?

DR YOUNG: Let me just gather my wits about me. Yes I think that one must not infer that if I have referenced documents that they only apply to  
15 what is said in the documents to which I want to talk or to address. So I think 228 addresses the context of the price contributors in general rather than the Tavitac System alone. That is certainly still relevant.

ADV SIBEKO: If you have regard to RMY46 that is a documents that provides the price breakdown of your DTI0423 and out RMY46. Is that  
20 anything in terms of that price breakdown at page 1021?

DR YOUNG: Sorry I cannot follow those page numbers. The documents that I have in front of me are my 228; 411 and 423.

ADV SIBEKO: Yes I am referring to 423 which contains the price break down.

25 DR YOUNG: Yes I need to address all of those documents. Maybe if I

9 MARCH 2015

PHASE 2

can do that in the order which they appear otherwise I will confuse myself and that is the last thing that I need to do.

ADV SIBEKO: You can do that.

DR YOUNG: I just want to, I need to justify although there is no burden  
5 of proof or onus of proof of me. I just need to justify this statements that I make as far as I can. I am not making a commitment now to prove everything beyond a reasonable doubt but I am doing my best.

If we come, obviously I am going to give you time now to get onto the right page. I am on page 204 of this document starting at Implications  
10 for Project Sitron

ADV SIBEKO: That would be page 1012 of our bundle. That is on file 3, page 1012.

DR YOUNG: I am going to start of the heading that says, Implications for Project Sitron and it refers to acquisition costs. I think this also  
15 emphasise the point that I am making about price increases and how it got the R3.9 and the R2.6 and the R2.9's whatever. It says here quite graphically in this document as far as I know is written by the project officer of both Projects Suvecs and Project Sitron then Captain Kamerman.

20 He says at point (i):

*"The acquisition cost of Project Sitron will be increased by more than a billion currently specified local combat suite or replace by astronomical or expensive or foreign equipment of the same functionality assuming the May 1998 rand exchange rate."*

25 I have used the term or not quite also astronomical.

9 MARCH 2015

PHASE 2

*“Examples of this is the ADS C-Squid I-Squid combat management system at R95 million quite where we were involved in things of C-Squid I-Squid ADS,”*

Anyway it is interesting that we were in the baseline somewhere  
5 along the line of providing a combat management system. I was  
unaware of that. In less of course it was always known that the Tavitac  
combat system would not come in and IMS would actually form part of it.  
That is the only rationale that I can think of right this second. I think to put  
a perspective of course there was no competition from the likes of  
10 Celsius Tech although I know that they did the German Frigate  
Consortium to allow competition.

In fact I met a senior executive of theirs in Cape Town who told me  
that they had a complete proposal sitting on the desks of the relevant  
Blohm & Voss people in Hamburg. We can also see the price there of  
15 R280 million I come to my evidence document there. The price was paid  
for the French system like I refer to R350 million I am not sure whether it  
was eventually R350 million or R335 million it was a lot. It was first of  
all a lot of money and secondly a lot more than Celsius Tech money  
which was R280 million. Of course it was three or four times more than  
20 what was originally being developed in South Africa which is the topic of  
the whole letter, which is the South African Technology Development  
where there could have been a combat management system at R95  
million.

Here again Kentron their defence missile was priced at R150 million. I  
25 think I stated earlier that the price eventually was R330 million I think.

9 MARCH 2015

PHASE 2

Anyway that just shows the enormous amount of risk that was added on by whomever, I am not sure. Certainly how cost effectively South African Systems were. My company even has a tiny little involvement in the rolling airframe missile, Ramsus and I am can tell you as an expert  
5 that the Kentron missile is a far more capable missile in terms in certainly of range et cetera than the Ram missile which was being offered of R350. It just shows the value for money of this South African Systems.

Electronic Warfare System is shown here at R160 million I am pretty  
10 sure that it is in the final costing as well over R200. Okay anyway it certainly puts perspective of what I am trying to say that the prices that made up the R2.6 billion are extremely, extremely high of what could have been achieved. In term of the expectation at least that has been addressed right here in front of us.

15 ADV SIBEKO: Just in a different context if you turn the page to our page 1013 you will find a heading that deals the Strategic Implications. Is that something that you want to talk to. The comments that are made there with regard to?

DR YOUNG: Well this unfortunately takes me back to the first page but  
20 I have to put this in the context with that.

ADV SIBEKO: Yes, you can proceed.

DR YOUNG: I think w are talking about paragraph 2 here where it is stated that where the current situation is addressed.

ADV SIBEKO: I was actually talking about page 3 of your document  
25 and page 1013. On Strategic Implications.

9 MARCH 2015

PHASE 2

DR YOUNG: Yes I see it but before I can address that I have to introduce the context from the beginning that this letter was addressed on the first page under the section 2, current situation. That puts it in context.

5 ADV SIBEKO: Okay.

DR YOUNG: I read from that, current situation:

*“Is prescribed due to the realities pertaining in the industry during the last three years ie, virtual [indistinct] of SA Navy Capital Project Activities. Many of the 16 companies and divisions involved in Project*  
10 *Suvecs are literally reliant on its continuation for their survival until all of this can be placed under Project Sitron.*

*All the industries involved in Suvecs are either small specialist companies or small specialists divisions of larger companies which cannot survive with continuity of order especially in the current climate*  
15 *of low business confidence which inhibits self investment. In turn however all cost schedule in logistic capability and IP planning (that is industrial participation not intellectual property) as Project Sitron assumes the continued survival of the local industry and the sourcing and support of the Corvette Combat Suite from them.*

20 *Thus a central pillar of the acquisition strategy for Project Sitron the assumption of a mainly local combat suite be the survival of local industries dependent on continuity of funding in the physical year of 1998.*

*(c) From (a) and (b) above Project Sitron as planned is critically*  
25 *reliant on the continuation of Project Suvecs.”*

9 MARCH 2015

PHASE 2

I think that is the correct context to be taken into that point.

ADV SIBEKO: So that point appear on the page 1013 under paragraph D. Yet makes reference to among others, unaffordable corporate abilities. Loss of knowledgeable via capabilities and loss of control of  
5 [indistinct] technologies.

DR YOUNG: Yes, indeed. This takes me to many of the other points. Our self investment in the IRS, I have mentioned that. It is the child who was fed for seven to eight years. It is the disintegration of the local industry and I am please to say that despite us not winning the IMS we  
10 never disintegrated but we very nearly came to doing so.

But certainly at this stage this is a fairly reasonable assessment of why we though our company had a legitimate expectation of being involved in not just the development, technology development but technology retention whatever names want to keep it in the supply  
15 contract for Corvettes or for frigates for one for Project Sitron based on our technology maturity. Our prices were acceptable but clearly C-Squid I-Squid a year or so later was not that important to the continuation of the local capability of the South African Naval Defence Electronics Industry.

20 ADV SIBEKO: Is there any other relevant discussion on this document regarding the contributors to the price increases?

DR YOUNG: No the only thing that I need to say was that the last thing that was said, was said sarcastically.

ADV SIBEKO: Perhaps if you turn to the next annexure which is  
25 RMY45 your DT10411. There is a management briefing dated 23 April

9 MARCH 2015

PHASE 2

1999 and that is the document that appears in that same file at page 1015.

DR YOUNG: Yes I did mention that we talked about project control board and presentations made thereto. This one as you can see is  
5 Annexure A so it is a management briefing and as far as I remember this was given to both the Naval or as well as the Project Control Board and it is an annexure probably of both but I think I am referring to the Project Control Board.

There are some relevant points that I would like to address here.

10 ADV SIBEKO: Let us start with the first one.

DR YOUNG: Combat suite which is a point 2 still on my first page of this document. It was fairly clear I hopefully I have traversed it well enough is initially large overpriced. If I may make the observation eventually it was still overpriced. I can say that in the context of what is  
15 simply here in brackets.

The target was less than R2 billion where it ended up at R2.6 billion there were obviously still had to be overpriced at the end unless there were very good reasons for that jump of R700 million. This particular document refers to the combat suite and its status at February 1999.  
20 Where it was quoted at R3.2 billion I think I addressed that. Whether it is in this document or others it actually started with R3.9 billion.

Just to show the Government or the state's perception of where we were in this acquisition process what I would have thought would be informal at this stage especially in terms of MODAC here is it stated that  
25 seriously incomplete quote.

9 MARCH 2015

PHASE 2

It is difficult for me to reconcile with what I read here in terms of a formal acquisition process. Here is something that I mentioned just in the previous point regarding the prices. The previous point and the previous letter of what is stated as the Kentron's missile which is a pretty capable missile. Where the price inflation came from I am not quite sure but I am just reading what I am see here.

The Kentron's Nkonto surface-to-surface missile previously had not been quoted for by Kentron as I know in those costs and risk audits at R150 million in May 1998, obviously that is where the May 1998 came from were being quoted at R380 million. I think the final price might have come down to I think I mentioned R320 so there were obviously some risk was reduced there but that is still a lot of money. That is still a lot of money.

A graphic point with regard to the Combat Management System. In November 1998 not even May 1998 the price was R96 million. I have mentioned figures of R350 million and R335 million. Here it takes about R320 million that is how much it cost us by going for a French System rather than the one that Altech Defence Systems were offering as far as I am aware. There was only a very minor [indistinct] a relatively minor lack of capability that was being offered there. Certainly not worth the difference between R96 million and R320 million et cetera normally et cetera.

Prices padding due to unfamiliar contracting model... now to me that is just acceptable, unacceptable for a professional approach to providing best and final offers and whatever else. We are talking about April now.

9 MARCH 2015

PHASE 2

Here is the complete quote. May, sorry March 1999 and the complete quote of R3.9 billion. That is brought down by the exclusion of performance guarantee by ADS. Bringing it down to R3.3 now that is a pretty fundamental statement. Quite where I meant to fit in my  
5 performance guarantee for the combat suite for the entire combat suite of R3.3 billion I am not quite sure.

Anyway in fact to be honest. It is confusing me where all this stuff comes from. Just a month later we now go down from R3.9 to 2.8. As I have said before this was achieved by cutting down and quantity of  
10 various systems, quality of systems. and exclusions of 'nice to haves'. At this stage IMS was not a nice to have it was still in the basement.

ADV SIBEKO: On the issues that appear on this page 1017 these are matters that you have dealt with already in your evidence that led to the reduction of the scope of work in order to try and achieve the price  
15 reduction. Is that correct?

DR YOUNG: Yes. I am not going to belabour the point but maybe we can down to the 5<sup>th</sup> page.

ADV SIBEKO: Is that page that starts with Platform?

DR YOUNG: No it starts with Combat Suite Future Path. Sorry, it says  
20 item 7, Combat Suit Future Path.

ADV SIBEKO: That is it. Page 19. I see.

DR YOUNG: It is important to put it in perspective. We bought this very expensive system as for the somebody at least presumably the Navy or Defence it is a painful loss of functionality. Despite the next point the  
25 next big bullet point down there where it says 'Competitive Quote for SC

9 MARCH 2015

PHASE 2

Program Management Integration Combat Management System' it is not really practical. Now I have to highlight that because that is despite the directive of the Chief Executive of Armscor looking for alternative source of supply and contracting models.

5 The next point down is Armscor [indistinct] various of elements of CS directly. I am just wondering, it says feasible but it does not carry on. I would like to interrogate whether or not this is not what happened in respect of part of at least the surface-to-surface missiles.

ADV SIBEKO: Apart from the issue that you are raising now is there  
10 anything else of significance on this document before we move to the next one RMY46?

DR YOUNG: No I think we can go the next document.

ADV SIBEKO: That would be the price breakdown for week 12 proposal erected version. It appears as RMI46 page 1021. That is your  
15 document.

DR YOUNG: Yes, I can see that yes.

ADV SIBEKO: Right.

DR YOUNG: This is mini page document. It looks like 10 pages. I think  
20 what it derives from is a Spreadsheet of all the prices that were being recorded in fact if one looks at the documents we can look at pricing for that it was done on a weekly basis so they are talking about pricing in another week 10 or whatever it is.

As far as I can remember the only spreadsheet that I have got in this form of 10 pages is actually was attached to the request for best and  
25 final offer from ADS which in itself was sent to us in response for a

9 MARCH 2015

PHASE 2

request for best and final offer from the DoD from the joint project team.

The point I want to make in this particular regard is there and as far as I know the prices of the various elements are recorded and if I am correct in saying so the, I have to make sure that I am referring to the  
5 correct point. If I may just ...[intervenes].

ADV SIBEKO: You will see the spreadsheets are marked at the bottom of each schedule the spreadsheet page 1/10 it is our page 1021 and then it continues to page 2/10, 1022 et cetera. Do you see that in the various columns there is something like the segment element, acronyms  
10 and so on.

DR YOUNG: I know the quick spreadsheet quite well. I am finding my way around a sheet. I am have to the relevant part which is the 6<sup>th</sup> sheet page 6 but I just need to start somewhere else.

COMMISSIONER MUSI: Can I just point out that the copies we have  
15 are completely illegible. You cannot read it.

ADV SIBEKO: Commissioner Musi I am struggling to read as well. We will try and get the team to make this A3 spreadsheets perhaps those might be a little bit more legible subject of course to the machine being in a functional working order.

20 CHAIRPERSON: I think in the mean time we will carry on.

ADV SIBEKO: Indeed Chair.

DR YOUNG: I at least have A4 landscape versions and unfortunately my eyes are poor and I can just make it out. Not so much the size but the quality of scanning and printing is not that great. Nevertheless be  
25 that as it may. On the very first page down the very left hand side I

9 MARCH 2015

PHASE 2

have added in, my version at least I have done this specifically to indicate what I have put it just for me to be able to find my way around.

Is the indicator IMS. Are we all on the same page with that?

ADV SIBEKO: Are you on page 1 of that annexure?

5 DR YOUNG: Indeed correct. The way that this spreadsheet work is in unfortunately a matrix of mainly two by five which makes 10 in terms of let us stay horizontal there are five spreadsheets and the second part of columns is then comes from sheets 6; 7; 8 to 10. In fact I am pretty sure that is why it is like this. If one put this together it would be a big matrix  
10 of 10 spreadsheets, five down and two across. That is why I found the [indistinct] of the IMS I have to go to spreadsheet page 6.

It is important that I start off with the first page. I am not going to spent to long over this. On the first page one can see at this particular point the IMS as in the system integrated segment and is indicated in  
15 the column as contractor as CCII. Okay I think also it is in respect of a price break down for week 12 proposal, corrected version. It has got American date right at the top unfortunately. Those people who do not fiddle with the spreadsheet settings gets the American date it is certainly was not for 5 November 1999 it was 11 May 1999. I think that is fairly  
20 clear by inference.

ADV SIBEKO: So that page 6 of that spreadsheet you are referring to is our page 1026?

DR YOUNG: Probably but I do not want to go there otherwise I am going to lose my place on page 1. That is where I am starting. The  
25 information system and its companions being the network interface

9 MARCH 2015

PHASE 2

cards which I can just read here and it's bust tester are indicted both being supplied by CCIII and the amount looks to me like R34 million and so they have obviously taken our quoted amounts and they have put this into various categories.

5 The point that I am trying to get to here is here is detailed breakdown of our prices coming out of at least, our final BAFO was 14 May and in fact that confirms my point. This was an addendum to the request for BAFO that we got on 13 May and it was resulting from the JPT request for test and final offer. That was attached to it. So here we are selected  
10 and my view not only are you selected but you disclose to all and sundry the prices.

Now remember we just actually talked about in the previous document 16 different companies. Elsewhere it is reported 18 different companies. At least 18 different companies would have been provided  
15 this request for best and final offer. So all of them are being sent this spreadsheet directly from ADS. That is where annotated right at the top ADS. The Government the state the joint project team is disclosing our prices not just the bottom line price but details of our prices.

Now unfortunately that is an unfair comparative. How unlawful it is I  
20 do not know. In my view once you have gone this far in a acquisition process and then it gets open up to competition it has to open up very very serious questions about un-reasonableness and unfairness. It cannot be in fact. Once you have exposed a company's price that is it. It would only be fair that if our prices were so unreasonable at this stage  
25 that they did not fit into the greater scheme things.

Why I have addressed these prices on the first page, page 1 here is how IMS prices were indeed reasonable. If we go down to the next point you come to CMS and you also come, that is allocated to ADS you can see that in that column. Even the NBS at this stage BAFA

5 **CHAIRPERSON**: We have a suggestion to make. We want to adjourn for 15 minutes and from there we come back until 18:00. We want to try and see if we can finish this witness.

**DR YOUNG**: I am quite happy to stay here until 06:00 tomorrow morning.

10 **CHAIRPERSON**: Tomorrow morning thank you. Any objection there is an offer the witness is saying he can sit here until 06:00 the following morning. Can we adjourn and come back after 15 minutes and continue and see how far can we go.

**COMMISSION ADJOURNS**

15 **COMMISSION RESUMES**

**DR YOUNG**: (s.u.o.)

**ADV SIBEKO**: Dr Young when we adjourned we were still busy with that document of our RMY46 and you were just about the deal with the CMS portion of the price breakdown.

20 **DR YOUNG**: That is correct yes.

**ADV SIBEKO**: You may proceed then.

**DR YOUNG**: As I said under the indication the top of this document that particular column says contractor. It does not say candidate or supplier it says contractor. In any case under CMS Contractor it is indicated as

25 ADS.

9 MARCH 2015

PHASE 2

Now just to put thing in date perspective again we are talking about 11 May 1999. The C-Squid I-Squid, NDS has already been selected by the State and you will see this document still says supplier as ADS which is something with ...[intervenes].

5 ADV SIBEKO: Where are you?

DR YOUNG: I think it is the very last line, I have indicated there NDS on the left hand side, last row.

ADV SIBEKO: The last row of our left hand side has navigation intergration... computer.

10 DR YOUNG: Exactly there. If you look three column to the right you see ADS.

ADV SIBEKO: Yes.

DR YOUNG: The point that I am trying to make is this page in May 11 May 1999 C-Squid I-Squid had already won the competitive bid against  
15 ADS to supply the NDS yet they are still indicated as ADS. Nevertheless we soldier on. I am now going to my page 6 of 10.

ADV SIBEKO: That is 1026.

DR YOUNG: Yes. I do not know about those kind of page numbers.

ADV SIBEKO: Are you looking at the first left hand column?

20 DR YOUNG: Yes in the left hand column indicated in the grey there is subtotal in the first column. In my version I have indicated an IMS so that I can get to the right place. I do not know if it is in your version or not.

ADV SIBEKO: No.

25 DR YOUNG: I am sorry about that, that is exactly why I did it on my

9 MARCH 2015

PHASE 2

version but I had to discover the original version a year ago and I have worked on this since then. If we go down the column and subtotal you will see an amount of R56 million. You will unfortunately have to believe me for this stage. That is the IMS column. We have just been dealing  
5 with the IMS and that is the relevant IMS column R56 million. We know that fairly easily if we go to the remarks column which is the second last column. You will unfortunately not be able to read it or maybe not but I can see there that it says, NIC it stands for Network Interface Card Cost to be included in such. I just know that I am on the right road because I  
10 would hate to be pointing at the wrong road.

What I am trying to get at here at this stage at least including VAT on  
11 May our IMS has been quoted to the State looks like R59 million including the VAT and it is in the column that is headed right at the top, total cost at 14 VAT included.

15 ADV SIBEKO: Does that discussion on the matter exhausted at least what you referred to paragraph 22 to of your statement in which you deal with price increases?

DR YOUNG: Not quite. Just remember that I am trying to prove these things as far as I can. What I can try to at least justify what I am saying.  
20 If we look at the price of the R59 million and we go up to the top three columns there is a price of R234; R181 and R10 million. Those are the prices that I have discussed before for system or participation in system contractor their project management and system integration. I already talked about a total price their ADS was quoting of over R400 million.  
25 That is where I get that from. Maybe that is not the only reference to it.

That is a in terms of a documents that is not my own.

If we go further down under IMS, unfortunately on the very left hand shaded column I do not know if you can read the figures. There is a amount of it looks like R364 but if you go along that row which is much  
5 clearer, in fact I have actually highlighted that row anyway. You see an amount of R353.719 that is the price at this stage being offered for the CMS. R353.7 million.

As I have been trying to say many time before. If you look at the description column or the comments column the second last column it  
10 says based on Tavitac NT Building Block adapted and customised for SAN functional requirements and locally developed cost. Commercial of the shelve based hardware... Seven oceans based. Anyway the point that I am trying to make this CMS is indicated at the sum of R353.7 million.

15 ADV SIBEKO: Is there any aspect of the combat suite that you want to bring our attention too?

DR YOUNG: No I think that, that suffices for the moment.

ADV SIBEKO: You statement then makes reference to your acceptance by the State of ADS's integration fee of R425 million as  
20 oppose to a fee of R150 million which had been estimated as at January 1989?

DR YOUNG: That is correct, yes.

ADV SIBEKO: In this regard you refer to your document 0202 which is our RMY18. Is that correct?

25 DR YOUNG: That is another schedule or spreadsheet.

9 MARCH 2015

PHASE 2

ADV SIBEKO: That spreadsheet that you referred to during the course of your evidence I think it was on Thursday?

DR YOUNG: That is correct, yes.

ADV SIBEKO: Is that anything else you wish to add regarding that  
5 reference you can proceed further.

DR YOUNG: No I am just looking at that and my eyes are getting confused. So we have, sorry. It is very difficult for me to read it is on the record already and I think it suffices for the present time.

ADV SIBEKO: In any event you would have dealt with these at  
10 paragraphs 120 and 126 of your statement. You then proceed to state on 3 December as you mentioned earlier that the written contract was supplied to Corvettes were concluded and that this contract makes provisions for the use of the Detexis System rather than the IMS that was provided by your company.

15 DR YOUNG: That is correct, yes.

ADV SIBEKO: You mention at paragraph 268 of your statement that as at that time neither you nor CCII Systems had been formally notified of the decision to replace the IMS with the Detexis System. When did you first become aware of that?

20 DR YOUNG: Well it is probably different from when I first became aware of it and when I first became officially aware of it. I do not think that we were ever officially advised by anybody and of course inferentially I certainly realised that, people were not longer communicating with us in this regard. So obviously I had to infer that  
25 the IMS was not or no longer selected.

9 MARCH 2015

PHASE 2

As on my document RMY48 the first time that we were officially advised of this is 18 months later in respect of a letter sent by the Director of Naval or acquisition was signed by the Direction of Naval Acquisition Admiral Van der Schyff who signed here as instructed on behalf of Chief of Acquisition who was at this stage Chippy Shaik.

ADV SIBEKO: Yes, RMY48 is that document appearing that is a document appearing at page 1041 of our bundles. It is a letter dated 6 October 2000. A letter of the Department of Defence addressed to R Young. It has enquires Mr S Shaik. Is that the letter that you are referring too?

DR YOUNG: Yes.

ADV SIBEKO: You say that, that was the official notification that you [indistinct] to the substitution of the CCII System what the IMS with the Detexis System is that right?

DR YOUNG: That is correct, yes.

ADV SIBEKO: Anything you need to add?

DR YOUNG: It is certainly relevantly what I have highlighted here and hopefully have blogs there. The third paragraph down. It starts with 'therefore due to financial constraints.' Can you see that?

ADV SIBEKO: That is in the middle of the third paragraph with start with the Department of Defence. Yes I see.

DR YOUNG: That is correct. It would certainly just put things into perspective now of the position that was being taken by the Department of Defence:

25 "Therefore due to financial constraints of the project the combat suite

9 MARCH 2015

PHASE 2

*selection process [indistinct] became a design to cost exercise. Furthermore the combat suite had to be offered against the approved SA Navy User Requirement Specification which is a function specification with all potential suppliers indentified as candidates*

5 *suppliers only. Thus CCII was only a candidate supply during the IFO and the BAFO rounds combat suite [indistinct] with no supply being implicitly or explicitly nominated or excluded.”*

Unfortunately what based on what I can see in front of me what I have been ventilating the last couple of days that just cannot be correct. First

10 of all if we are offering the combat suits in the sub systems according to the approved, here is proof. The Navy User Requirement Specification I do not think it is combat suite requirement specifications. It might be incorrect.

Even if it is the NS of Navy Staff Requirement it is approved that

15 seemingly if it had an offer against that then what was chosen in no way whatsoever conformed to that whereas we did. Certainly in the ROF and the BAFO rounds we might have been referred to as candidate supplier previously we were referred to as a nominated contractor. We were only candidate supplier. There was nobody else. As I have said in

20 the past 10 years the BAFO round we not only indentified as candidate supplier but we are indentified in terms of our own price not only on our price but on our price breakdown.

I think it is relevant to put these two things what is being said here in context. Maybe I am belabouring the point slightly or certainly it did

25 become a design to cost exercise but only because the untenable

9 MARCH 2015

PHASE 2

possession that the State found itself in negotiating with a supplier that was in an extremely advantageous position. The last point says due to financial constraints of the project. Really as I said the financial constraints were so that they were constraint from going from R1.9 to  
5 R2.6 that they could not fit in 20 or 30 or 40 million to cover the IMS risk.

In anybody's language those financial constraints were very [indistinct] indeed.

ADV SIBEKO: Are you aware at any stage when the Detexis System was chosen as the preferred Databus whether the SA Navy used the  
10 requirement specification for combat suite been changed to incorporate that Detexis System?

DR YOUNG: No not at all. I did address this point on Thursday or Friday as far as I know and of course I am no longer on the mailing list of updates it has not been changed. It still exist and it is still relevant.  
15 What I do understand what happened is that there were two relevant points. Is one the so-called differences between wheat were provided under Project Sitron and this specification would be a addressed in terms of what was turned as a Delta Document.

The way that it was addressed was as thought the Delta Document  
20 existed. I have never ever seen that at all. Anyway the inference of that and if there is truly a discrepancy which will be remedied or rectified is that document is still valid and relevant as today. The other point that I wanted to make was instead of proceeding with the Navy baseline, technical baseline is at a later stage, very later stage is ADS starting to  
25 write its own specification is called the SSS or System Segment

9 MARCH 2015

PHASE 2

Specification for the combat suite.

Initially the draft of that leads to the first point that I supplied also referred to the IMS. Our IMS but not much later the second version that came along in fact I saw there. One had red line and [indistinct] that  
5 version I saw had the IMS struck out and replaced with the Detexis System. The final version the red lines are removed and only the Detexis System is there.

So effectively what has happened was that the function or the baseline or whatever context were dysfunctional or contractual or as  
10 build or whatever it is now replaced by ADS's own system. I would also in my view consider that as a interesting acquisition practice. Where you allow the baseline the accepted baseline from the user or the buyer as it get called to be replaced by a document or a baseline of a supplier.

ADV SIBEKO: Now that brings us to the conclusion that, that  
15 discussion I believe of the conclusion of contract in respect of the combat suite for purposes of your evidence I believe. That brings us to your discussion on allegations of corruption, Corvette Platform and that discussion starts as from paragraph 270.

DR YOUNG: Yes. if I may say so that is probably the main why I am  
20 here. Is because that is the main terms of reference of the Commission. I cannot ventilate those things without putting context in excruciating detail on the table. Otherwise the big picture is not there. The big picture in the context is what I have tried to paint over the last three days. I apologise for that but is had to be done.

25 ADV SIBEKO: Your discussion of the allegations of corruption

9 MARCH 2015

PHASE 2

regarding the Corvette Platform I see from the discussion here and based on the contents of a [indistinct] to the South African Government that you refer too in your document at RMY50. Is that correct?

DR YOUNG: That is correct, yes.

5 ADV SIBEKO: Now that RMY50 start at page 1044 and it is a document written in a written in a language that I cannot read. Are you able to indentify that document for the record please?

DR YOUNG: Yes I can identify it by date but I certainly do not want to pronounce even the first couple of words.

10 ADV SIBEKO: There is an English translation I believe of that document I believe which starts at page 1053 that would in your bundle be at the language that you and I cannot read. Have we found the translation?

DR YOUNG: Well it is in German because it comes from the German  
15 Authorities. My brother-in-law and sister live in Germany so I recognise the language.

ADV SIBEKO: You indicated during the early stages of your evidence that in the cause of your involvement in issues relating to the procurement of the special defence projects you have been in contact  
20 with authorities from various jurisdictions including the Germans is that correct?

DR YOUNG: Yes that is true but that contact with them has got absolutely whatsoever to do with this document. If you want to know the origins of this document in my context I am quite happy to tell you?

25 ADV SIBEKO: How did you get hold of this document?

9 MARCH 2015

PHASE 2

DR YOUNG: This document ended up after being sent to the German Authorities to the South African Authorities and I believe at that stage the Minister of Justice in this country was somebody called Bridgette Mabandla. These documents ended up in something which was globally  
5 called the Mabandla Dossier.

ADV SIBEKO: How did you get hold of the Mabandla Dossier?

DR YOUNG: The reason why it became the Mabandla Dossier and it was being addressed by the Department of Justice in this country because a representative of Thyssen [indistinct] mentioned this  
10 document. He is the local representative. His name if Fred Muller had complained I believe because and the company that were being represented were being indicated in a negative light.

In response of this and as far as I can remember I do not know all the details honestly. most certainly do not know them well enough I do not  
15 think that they are actually relevance to my evidence. I will do my best is that the NRA which is exactly what is saying is a mutual letter of assistance to request from the German Government. this particular one happen to be the Swiss Government.

As I have said there was a companion 1 which I were led to believe  
20 which was almost exactly the same. Certainly this particular form of out came out of the Mabandla Dossier and effectively what Fred Muller had done is he tried to made a representation to Minster of Justice or the Ministry of Justice that a South African Investigating Authorities would not act on this document to either corroborate with the Germans or  
25 possibly to initiate an South African investigation of its own.

9 MARCH 2015

PHASE 2

ADV SIBEKO: As you point out this document at page 1053 says it is an MLA is says Judicial Assistance Dealing with Switzerland. How does they relate with the German one?

DR YOUNG: Sorry could you just repeat that?

5 ADV SIBEKO: I said the document the English translation of the documents that we are looking at which starts at our page 1053 as the heading, The Chief Senior Public Prosecutor, Judicial assistance dealing with Switzerland. The question that I am asking is how does this relate to German that you referred too?

10 DR YOUNG: Unfortunately I have never seen the companion request which I believe was made by the same German Judicial Authorities to the South African Authorities. What I am told is that they did want Switzerland because that is where the money ended up and so they requested assistance from the Swiss Authorities. I am not 100% sure  
15 but it is just what I have been told is that the German requested the South African Authorities disappeared.

ADV SIBEKO: Now this documents as it reads as follows:

“Request for investigation of account information ...[intervenes].

CHAIRPERSON: Just hold on Advocate Sibeko. I see on paragraph  
20 271 Dr Young mentions the fact there is so-called Germans MLA South Africa the Commission has possibly received a copy thereof or the Commission has a copy thereof. I just want to mention that, that is incorrect. Commission does not have that copy.

DR YOUNG: Okay, I am quite happy to accept that.

25 ADV SIBEKO: Thank you Chair.

9 MARCH 2015

PHASE 2

DR YOUNG: But is I may say so I think that I am pretty sure that these documents exist and somebody at least should have them.

ADV SIBEKO: As from paragraph 272 of your statement proceeding to about the end of 273 you gave a summary of what is contained in that  
5 document. Can you just take us through that?

DR YOUNG: It is quite a lengthy document and it is difficult for me to find the exact pages to read out. As I have said in my witness statement the German Authorities formally alleged bribery of some USD 22 million paid to a range of South African Functionaries through a  
10 Liberian Registered Company Mallar Inc owed by one Tony Georgardis.

That is in paragraph 2B of the 2(ii) of the MLA. That was what I was trying to find.

ADV SIBEKO: Is it correct that the summary or what is set out in your warning statement has been taken out of the document which is  
15 RMY50?

DR YOUNG: I would certainly like to say so but I would not say that under oath.

ADV SIBEKO: Would you perhaps repeat that?

DR YOUNG: I said that I would certainly like to think that I would  
20 certainly like to say that but I do not know whether I can say that under oath.

ADV SIBEKO: From the document that you have produced at RMY50 that is so that the document amongst others request for investigation of account. Information and bank records in an investigation regarding a  
25 contravention of The International Corruption Act, Fraud of an serious

9 MARCH 2015

PHASE 2

nature and attempted tax evasion and it relates to an investigation that was instituted at the office of the public prosecutor in Dusseldorf against certain German Nationals amongst others.

DR YOUNG: Yes working from memory I think you are completely  
5 correct. Fortunately in this case I do not think that I have tried to quote I just tried to paraphrase what the document says but certainly I am looking for the correct 2(ii) and see paragraph 2(ii). I am certainly happy to work from this.

ADV SIBEKO: You can proceed from that point.

10 DR YOUNG: There is something that struck my eye. It starts of on my page 12 and 2: Facts of the case. 2A says this investigation is based on the following essential causes.

ADV SIBEKO: That would be at our page 105.

DR YOUNG: My PDF pages is 12 pages?

15 ADV SIBEKO: that you will find under facts of the case is that correct?

DR YOUNG: That is correct.

ADV SIBEKO: Paragraph A that it is a [indistinct]:

*'The investigation is based on the following [indistinct]?'*

DR YOUNG: That is correct. Carrying on it says:

20 *"The company Thyssen Rheinstal Technik GMBH Blom & Voss. GMBH and Howaldtswerke Deutsche Werft GMEH [indistinct] joined together as a consortium namely the German Frigate Consortium. This consortium initially participated unsuccessfully in the invitation to tender to modernise the South African Navy which project entailed the building*  
25 *and delivery of four Corvettes.*

9 MARCH 2015

PHASE 2

*After the invitation to tender the same project was repeated four years later and the consortium was successful and on 18 November 1998 it was appointed as preferred supplier.*

*Negotiations to that effect then took place which eventually after several Cabinet decisions of the South African Government resulted in the execution on 3 December 1999 of an agreement for the building and delivery of four Corvettes. So the South African Government represented by the Department of Defence and the departments Purchasing Organisation Armscor and the South African Department of Trade and Industry became the contract partners to the consortium.”*

I do not think we need to go through the rest of that I think we can now start at paragraph B. It reads:

*“The consortium had in fact pay considerable bribed to achieve the conclusion of the agreement. In contravention of section 2, paragraphs 1 and 2 of the Prevention of International Corruption. The Corruption Act read with paragraph 334 and 334 of the German Penal Code in the course of which Thyssen Rheinstal Technik GMBH as prior state of affairs took the leading role within the consortium. In addition the corresponding undertaking to pay in favour of South African Officials and members of Cabinet whose names were at that time only partly known could have resulted from a time prior to the conclusion of the agreement on 3 December 1999.*

*The payment of the bribe money was tied up by the fact that Thyssen Rheinstal Technik GMBH concluded a commission agreement with a letterbox (shelf/shell company) namely Mallar Incorporated a company*

9 MARCH 2015

PHASE 2

registered in Liberia for over USD 22 million payable over a period from April 2000 to October 2001 in terms of which at least the predominant of the aforementioned now directly or indirectly flow to South African Officials and member of Cabinet after the coming into the effect of The  
5 *Corruption Act on 15 February 1999.*

*Exactly when the corruption money reached the receivers thereof could as at yet not be finally confirmed within the framework of this investigation.*

C. *The bribe payments were a part of the consortium's officially  
10 submitted offer nevertheless with the submission of the offer of the consortium an untruthful representation was made to the subsequent contracting parties that the required total contract price comprised in remuneration for the required performance and not bribes.*

ADV SIBEKO: Is there anything further that you wish to add. I ee that  
15 mention is made paragraph D of Thyssen Rheinstal Technik GmbH in turn to deduct the informant payment on tax?

DR YOUNG: No I think that it is sufficient for the purpose right now but the entire document is pretty interesting so I would like to consider that the entire document is on the record.

20 ADV SIBEKO: Now accepting for purposes of your evidence that the referred document is on record that would bring us then to paragraph 274 of your statement.

DR YOUNG: No 272.2.

ADV SIBEKO: Oh I beg your pardon.

25 DR YOUNG: It says here at 272.2:

9 MARCH 2015

PHASE 2

“That the German Authorities alleged a further USD3 million bribe paid to a British Juristic Entity Merrian LTD. The company controlled by one Ian Elvis Pierce of behalf of Chippy Shaik refer to paragraph 2e of the MLA.

5 ADV SIBEKO: That is paragraph 2E that appears just above the heading at page 1058 which says Extent of the requested action for judicial systems?

DR YOUNG: I think to yes.

ADV SIBEKO: That would be on page 6 of your, I believe that the  
10 portion that you are reading from is it the one that starts with the sentence:

*“With the help of the deceased records proof can already be learned that the abovementioned agreements of [indistinct] were abided by and the promised funds indeed paid.”*

15 Is that right?

DR YOUNG: Yes, I would actually like to start at the beginning of E. Where it says in the framework. May I do that?

ADV SIBEKO: Yes.

DR YOUNG: I read:

20 *“In the framework of this investigation the Investigation Committee consisted of officials of the State Office of Criminal Investigation in Nordhihein-Westfalen the Investigation Service into suspected tax offences of Essen as well as the officers of the Public Prosecutor in Düsseldorf have already been searched. The business premises of*  
25 *Thyssenkrupp AG as well as several daughter companies in Düsseldorf*

9 MARCH 2015

PHASE 2

*and Essen and Howaldtswerke Deutche Werf GmbH in Cologne. Brom & Vos GmbH in Hamburg. Man Ferrostaal AG in Essen as well as to a large extent the private residences of the named accused and have seized extensive evidence.*

5 *With the help of the seized records proof can readily led to the above mentioned agreements of Thyssen Rheinstal Technik GmbH were abided by and that the promised funds indeed paid. In this way the consortium paid through the middle man Ian Pierce that signed the commission agreement on behalf of Mallar Inc USD300 million to the*  
10 *South African Official, Shabir Shaik who acted for Armscor so that is he (Shaik) in violation of his official duty could promote the conclusion of the agreement for the delivery of the Corvettes.”*

I do need to say and that is why I am just leaving it to the record. That although this document refers to Shabir Shaik that is clearly a  
15 mistake. Shabir Shaik never acted for Armscor and neither did he violate or ever have an official duty. So it is clear that they are referring to Chippy Shaik and we will come to that in respect of the agreement to which they refer with the seized record that is the agreement of Thyssen the first two of which are discovered documents and I think that they are  
20 also documents referred too as evidence document. The third one more recently included in my won subsequent discover schedule where one also can see the reference to Ian Pierce and Ian Pierce never acted for Shabir Shaik but acted for Chippy Shaik.

ADV SIBEKO: Paragraph 272.3 you mention that the MLA indentified  
25 suspect, nine German officials of Thyssen?

9 MARCH 2015

PHASE 2

DR YOUNG: Yes indeed. I mean the group of the Thyssen maybe not them but it is certainly a member of the consortium but Thyssen certainly own Bhloem & Voss now but I think it included Dr Herbert von Nitzsch. Please excuse my pronunciation. The senior executive  
5 involved in the South African Corvette Deal.

ADV SIBEKO: These officials are they the one listed on page 1 of the translated document which appears at our 1053?

DR YOUNG: Yes they appear in both the translated version and the original version. The translation is not too difficult.

10 ADV SIBEKO: Would you like to read that names into the record or can we consider them to be on the record already?

DR YOUNG: Do you want me to read all of the nine names or do you want me to just read the Nitzsche, Muller and Sven Muller names?

ADV SIBEKO: Those that interest you will suffice.

15 DR YOUNG: They all interest me. Indeed if I may say they should all interest the Commission as well.

ADV SIBEKO: You can read them then it is correct.

DR YOUNG: It is easiest for me to then just scroll to the very top. So I will read some German here. All right. I am not going to read every  
20 single item including address but I will read sufficient to identify the people.

“Person A: Jurgen Gerhard Koopman, birth date 1 May 1942.

Person B: Pieter Jurgen. Wohigemut, birth date 13 March 1940.

His name come up again. Jurgen Koopman if I may say at this stage  
25 is an important person in these proceedings for me a very important

9 MARCH 2015

PHASE 2

person coming up.

Person C: Christoph Hoenings, birth date, 19 September 1948,  
Thyssen

Ulrich Scheel, (I think he might be from Ferrostaal I am not sure) birth  
5 date. February 1944.

Swen Moller, he is the South African representative of Thyssen  
president in this country I have mentioned it before. Birth date 14 July  
1967.

Dr Erich Vorster, birth date 5 November 1940, I do not see his name  
10 coming up again. H

Dr Herbert von Nitzsch, birth date 28 September 1939.

Klaus-Joachim Muller from Bhлом & Voss I think he was a project  
director for this project. His name comes up in further relevant  
document. Birth date 16 April 1948.

15 Klaus Bauersachs, birth date September 1948. He does not seem to  
come up again. Then there are Greek ones.

Tony Georgiadis. He is a Greek National living in the UK with also  
addressed I see born in Mombasa in Africa but also an address in  
Fresnuye, Cape Town South African. Birth Date 6 July 1945 and if I  
20 may say so he is the primary representative of something that was  
called the German Strategic Alliance.

ADV SIBEKO: At paragraph 273 you mentioned that the MLA also  
recognise the German Prosecuting Interests and a host of South African  
Interest companies and individuals. You list all of these as on 273.1 up  
25 to 273.34.

9 MARCH 2015

PHASE 2

DR YOUNG: Yes as I have specifically chosen the words carefully I just said that the MLA indentified that those people having an interest in them I am certainly not even casting aspersions against all of them. Maybe some of them are relevant in that context but certainly not all of  
5 them are. I did not want to be accused of cherry picking and of course this particular document to which I refer actually was the founding annexure of my supporting affidavit in support of Terry Crawford Brown's application to the Constitutional Court.

They founded this Commission of Inquiry not for wanting to score in  
10 points whatever I just believe that at this stage that identifying all the parties was the more appropriate option.

ADV SIBEKO: Attached to Annexure A was a warrant to enter and search premises and it has schedules and a list of names of people et cetera. Is this of any relevance for purposes of your statement and also  
15 in the light of what you just said now.

DR YOUNG: I have to be frank, I am not a 100% sure whether the search warrant itself was part of the MLA. What I am sure of is that it was part of the Mabandla Dossier. From what I remember now from having scroll down very fast is that search warrant or request for search  
20 warrant was in the United Kingdom and that document was in English. So it could have well have been attached as an annexure of the MLA I am not sure. It certainly was part of the Mabandla document that I was provided with.

It is a little bit difficult to read have to be honest but that is the way  
25 that it came. It has got an interesting set of names. What from what I

9 MARCH 2015

PHASE 2

can remember the most important object of desire for the search warrant was Tony Georgiadis I can see a reference here to Mallar Inc. which was his company in Liberia and another company of his, a company (it is difficult to read) Alandus Limited and another one that starts with a  
5 Vver....cannot pronounce the word in full

As far as I am aware that this search warrant mainly was in respect of Tony Georgiadis.

ADV SIBEKO: Is there anything else that you need to add with regard to the list of people in which respect the authorities might have had an  
10 interest before we deal with the allegations made by the German Prosecuting Authorities?

DR YOUNG: Well there is certainly one name that I am looking at right now that I have addressed a little bit further in my witness statement and that is the name of Jurgen Koopman. As far as I remember he  
15 represented Thyssen. In fact he visited this country and there is a documentary record of his meeting with the Chief of Staff Naval Acquisition, In fact it was the Chief of Staff Plans Naval Acquisition at that stage Admiral Howels. So that is important.

I see this document in English here refers to persons under  
20 investigation as Jurgen Koopman and Others.

ADV SIBEKO: What page are you referring to here?

DR YOUNG: It is I am not sure whether this is an English translation I think this might be an original. It is my page 26/29 so it is like the first  
25 last page of the end of this document. It is, I has got a big K written on it. Under K is serious Fraud Offers.

9 MARCH 2015

PHASE 2

ADV SIBEKO: That would be your page 1069?

DR YOUNG: I do not know those numbers so I just nod my head wisely.

ADV SIBEKO: Yes that refers to persons under investigation Jurgen Koopman and Others. Criminal Justice Act 1987 section 2. Is that the  
5 documents that you are referring to?

DR YOUNG: That is indeed correct.

ADV SIBEKO: It is a document from the Serious Fraud Office in London and it has a reference of MLA D02507?

DR YOUNG: That is correct. I think that it is relevant to point out that  
10 the reason why the Germans with their MLA as we talked about the beginning, the original MLA was to Switzerland because that is where some of the money was.

This particular document was with regard to the serious fraud office because that was first of all where Tony Georgiadis was *domiciled* I  
15 think that is ventilated in the three German Investigating Reports in much more detail. Working from memory is that there was clear collusion between Thyssen and Georgiadis with the methodologies of payments.

In fact I think I remember that it was Georgiadis's recommendation to  
20 Jurgen Koopman or Christoph Hoenings or both that a safe deposit box got set up in London certainly not the Kingdom where the agreement regulating what was called the Bribery Agreement USD300 million payment was kept in a safe deposit box in the United Kingdom and it required two key access. One from let us say from Christoph Hoenings  
25 certainly Germans and the other one from not necessary Chippy Shaik

9 MARCH 2015

PHASE 2

himself but his representative Ian Elvis Pierce. That is the main reason from what I am remember of why there was this corroboration or collaboration with between the Germans and the British.

ADV SIBEKO: Is there anything else that you need to add with regard  
5 to this annexure before we move onto the next one?

DR YOUNG: No that is sufficient at the moment.

ADV SIBEKO: In RMY51 you make further reference to allegations that are made by the German Prosecuting Authorities through a document that is entitled NOTIZ it appears at page 1073 of the bundles.

10 DR YOUNG: That is correct, yes.

ADV SIBEKO: That document I believe are also written in German but there also is an English translation at 1075. Can you just deal with that?

DR YOUNG: Yes. The original document I understand was seized during this raids by the German Investigating Authorities of various  
15 places including offices of Thyssen and I believe at this stage, only be inference. I know that Christoph Hoenings's own residence was raided and that yielded a number of relevant documents. Including those of geographic places yielded this document.

As one can see right at the top the memorandum is dated in the place  
20 of Dusseldorf on the date I think it is 8/8/1998. Certainly in a translated version I think I have got the date correctly. It is indicated as a TRT document. So it is indicated as TRT/F2, F2 might mean a folder name or a file name I am not sure. The TRT almost definitely refers to the name of the company a member of the German Frigate Consortium  
25 obviously a subsidiary of the bigger Thyssen AG called Thyssen

9 MARCH 2015

PHASE 2

Rheinstal Technik.

I am not going to read the German because my German is non-existent. I will say that this document was sent to me from Germany. I will also say that I do not know who sent it to me. I will say that it would  
5 definitely not by inference it was not sent to me officially by the German Investigating Authorities.

I specifically mention on the first day the request of the chairman the name of Detective Chief Inspector Andreas ...[intervenes].

COMMISSIONER MUSI: I am sorry. I missed the last view words that  
10 you said. Can you perhaps start from the beginning?

DR YOUNG: Yes, I will try to start from the beginning. What I can say that I received this document from Germany. I was faxed to me. It was definitely not sent to me officially. When I mean officially by the German Investigating Authorities and specifically not officially by the person  
15 whose name I was asked to disclose last Thursday who is Detective Chief Inspector Andreas Bruns. I think effectively from the German Detective Branch. So it was sent to me from Germany.

What is do know is later having been a complainant to the Scorpions a director for special operations and my complaint in terms of affidavits  
20 to the Nelson Police Station and then sent to the Pretoria Brooklyn Police Station and the case being opened by a witness how is hopefully still coming up in these proceedings Colonel what he was then, Senior Special Investigator Johan Rooinaken and du Plooy. I do know him being my case officer that this document was also received  
25 independently by them.

9 MARCH 2015

PHASE 2

I am fairly confident as confident as I can be to the assistance of the Commission that this document is genuine. I will also disclose at this stage that I retyped the German original on a second page and did the translation on the third page.

5 ADV SIBEKO: Do you speak German?

DR YOUNG: Not but Google does.

ADV SIBEKO: [Laughing].

DR YOUNG: Once you type something as neatly as I did as you can see the second page, Google translate function gives a good enough  
10 translation to get the meaning and import and the little bit of contextual knowledge one can even remedy the atrocious how can I say, English is obviously a very difficult language to translate. One can get that into a reasonably understandable format. I have run this past various people as I have said, my brother-in-law almost the same age as me was a  
15 [indistinct] engineer he is a German. He lives in Munich. My sister has lived here for 20 years and I have run this past various people.

As far as they are concerned this translation is good enough at least to transfer the meaning. If this was a court of law where a sanction might result from this I will pay lots of money to have court approved  
20 translator, translating it.

ADV SIBEKO: Would you like to read this document into the record?

DR YOUNG: Yes I will take the liberty of reading the English version.

ADV SIBEKO: It is at page 1075.

CHAIRPERSON: 1075? Advocate Sibeko before his reads this  
25 document into the record. I am not quite sure that whether Dr Young is

9 MARCH 2015

PHASE 2

saying what he is going to read into the record is the Google translation or whether it is a document to which his sisters and brothers who are in Germany made an input. Can he just clarify that. I am not quite sure what we are reading into the record. He said that on several occasions  
5 that his understanding of German is limited. Can we just understand what he is going to read into the record?

DR YOUNG: I retyped the original version as one can see I cannot read so easy very extremely carefully character by character to make sure that the German typed version above is almost as close and precise as  
10 possible. Then I submitted that to Google Translate and it responds with a reasonable English translation of the German original it gets various things wrong maybe like tenses and punctuation and not. Not the meaning not so important things. I have corrected that to make it read properly in English as a normal translator would do that properly.

15 I then ran this past various people who are at least I would not say fluent in German can speak both English and German to find out if there were any mistakes. The answer was no. Where things I could not translate they could not translate directly themselves you will see I have not tried to even hide that. If you go right to the top of the page you see,  
20 C Hoening/BO. That is what the Germans said. You will see one word which even German speaking do not quite know exactly what the contextual meaning it. The fourth line after guilt, I have left that there in square brackets. So if it had any specific meaning it does not disappear. I am confident that what I am put here is appropriate for the  
25 purposes of why I stand here today.

9 MARCH 2015

PHASE 2

COMMISSIONER MUSI: Before you read the document can I for my own understanding. Did I understand how you came into possession of this document, the circumstances?

DR YOUNG: Yes I think I am repeating myself now. As I said it was  
5 faxed to me from Germany. That is the original signed version. It was faxed to me from Germany and I retyped from what I could read that is what I called the typed German original above this typed version. I typed that from what I could read in the original faxed version.

COMMISSIONER MUSI: By whom?

10 DR YOUNG: I said that I do not know that.

COMMISSIONER MUSI: What were the circumstances?

DR YOUNG: The circumstances were all and sundry anybody interested in the Armsdeal anybody who was interested in corruption in this country. Anybody who is interested in bribery and corruption and tax  
15 avoidance in Germany was interested in this particular matter. We are taking about the document having been seized I think in 2007. So certainly by 2007 I had already been involved for about seven years in the public domain as being somebody interested in the Armsdeal and the Corvette Contract in particular.

20 Chippy Shaik somebody that I testified about in the Public Protector Hearings in August 2001. So many people across the world I even gave an interview to an Australian Broadcasting Cooperation know that I am interested in this and for some reason. Well not for some reason, for very good reason knew that I would be interested in this document.

25 COMMISSIONER MUSI: The person who sent you. You do not know

9 MARCH 2015

PHASE 2

the name or is it a case of you withholding the name of the person, was it an anonymous someone or you are withholding the name?

DR YOUNG: Sorry there was at least to coughs there. I lost what you said I am afraid I was very quiet. You can either repeat yourself to me if

5 I cannot hear it then unfortunately I have to ask Advocate Sibeko to

COMMISSIONER MUSI: Was the document sent to you anonymous or are you simply withholding the name of this sender?

DR YOUNG: Sorry I did not hear a word of that there was some kind of ...[intervenes].

10 COMMISSIONER MUSI: I think there is something wrong with my microphone.

ADV SIBEKO: I think Commissioner Musi wants to know if the document was sent to you anonymously or whether you are withholding the name of the person who sent the document to you?

15 DR YOUNG: No, it was sent to me anonymously.

COMMISSIONER MUSI: I see my microphone is not working. Yes, thank you.

ADV SIBEKO: If I understand your response to the Chairperson's question with regard to whether the document that you are about to read  
20 into the record is a Google Translation or whether it is a document that several people has given input too. Did I understand your response correctly to say, it was a Google translation which was modified once you had picked up certain mistakes from the Google translation and that you requested people who speak English and German to confirm the  
25 corrections that you have made?

9 MARCH 2015

PHASE 2

DR YOUNG: Yes I did the correct punctuation and tense corrections. Nobody else has as far as I can remember actually made an correction. All that they have done is to confirm that this is a fair and representative translation of the German original.

5 CHAIRPERSON: I am sorry. I cannot follow what he is saying. I thought he said that after the Google translation other people made an input and from there produce this document. Are you saying that no other person made an input except his efforts through Google. Is that what he is now saying to us?

10 ADV SIBEKO: You testified earlier as to how this translation came about. Would you like to repeat that?

DR YOUNG: Yes, I would start of by saying that I do not remember saying that other people assisted me with the translation itself. I do not think I said that. If I did I certainly did not mean either that I said or it  
15 came across that way. All that I am saying is that I did the translation. sorry I did not do the translation. I did the correction of the mistakes that Google translator makes.

Then I provided this version to other people who are I would not say fluent but are reasonably proficient in both languages to find out if this  
20 was a fair and reasonable translation for the purposes I had at that particular time which was a submission of my supporting affidavit in the Constitution Court in 2011. I have not changed anything since then.

From what I can remember is that nobody who assisted me in the checking made any particular input whether they said that no, you have  
25 got a word wrong or you have punctuation wrong.

9 MARCH 2015

PHASE 2

ADV SIBEKO: This would probably be an appropriate time to read that statement into the record.

DR YOUNG: Yes, I would hope so. Look I certainly do appreciate the requirements for the accuracy of evidence but if I may say so if anybody  
5 has got a problem with this kind of things. Then the Commission has to take it upon itself to do a translation. The Commissioner has been in possession of this for several years now. I am an important witness in these proceedings and it is very late in the day to be challenging something like this.

10 UNKNOWN: [Indistinct].

DR YOUNG: All right. I have talked about the dates and the place where it was written and as far as I know or as far as Google knows ...[intervenes].

CHAIRPERSON: Just hold on Dr Young. I hear that you are saying that  
15 the Commission has been in possession of this document for several years. Is that what you are saying the Commission?

DR YOUNG: Yes I know that for a fact.

CHAIRPERSON: Excuse me?

DR YOUNG: I know that for a fact?

20 CHAIRPERSON: We have been in possession of this document. When you say this document which one are you referring too. Are you referring to your translation or what you call your translation or the one that you alleged that it came from the Germans?

DR YOUNG: All of them.

25 CHAIRPERSON: All of them?

9 MARCH 2015

PHASE 2

DR YOUNG: Yes, I will tell you where it was. The very first time that the Commission met me was Commission was represented by Advocate Ndumbi and his senior researcher Kate Paten. This was in preparation for the Commissions upcoming overseas visits. Kate Paten actually had  
5 she was ... she had this document in front of her which was basically not this particular document the entire affidavit the supporting affidavit which I submitted to the Constitutional Court which gave rise to this Commission.

She had that document in her hands and that affidavit has the entire  
10 (sorry I am working from memory) maybe I am making a mistake now. I am getting a little bit exhausted. But certainly if I may say so... okay this is something that I am more familiar with right now. Is that I discovered all of these documents to the Commission a year ago on 5 March so it has been at least in the possession of the Commission since 5 March  
15 last year.

CHAIRPERSON: Thank you, you say maybe for a year. I will accept that. It is just at the beginning you said several years that is what made me to follow up on this question. Thank you. We can proceed now.

DR YOUNG: The German version is headed NOTIZ which in my  
20 understand it the equivalent to the word Memo, memorandum. It is in the context of South Africa particularly the South African visit he says:  
“The last trip (27-30<sup>th</sup> of July 1998) was suggested by C Shaikh, spelled the original Shaikh way with an (h) Director Defence Secretariat.

*During one of our meetings he asked once again for explicit  
25 confirmation that the verbal agreement made with him for payment to be*

9 MARCH 2015

PHASE 2

made in case of success to him and a group represented by him in the amount of USD3 million. (Guilt) I believe what guilt means is [indistinct] that is correct I believe. I confirm this to him and offered to record this agreement in writing at any time and proposed to put the latter in a safe  
5 that can only be access jointly. C Shaikh will report back. Shaikh has emphases that the B+V/TRT that is Bhlom & Voss and Thyssen Rheinstal Technik offer was pulled into first place in spite of the Spanish offer being 20% cheaper. The Spanish offset (only the DTI shared 'without' social components) was according to him also valued higher  
10 than ours. In this respect it had according to him be no simple exercise to get us into first place.

Mr Muller/BV that is obviously he is the Project Director of Bhlom & Vos was informed by me at that time about the arrangement made and also about the conversation that I had just had with C Shaikh whereby  
15 he was asked to reserve the aforesaid amount for the price negotiations to follow to which he was agreeable. C Hoenings, as a said signature on the copy received."

Then there is something on the original by hand it is typically what people in an organisation do when they receive a document. They  
20 scribble something on it. I am not even going to try to read out what it is in German. All that I can see is that there seems to be a reference to B+V and somebody has had put an initial there. Yes that is it.

ADV SIBEKO: You then say in paragraph 267 that this memorandum is an executive statement in terms of South African Arms and Corruption  
25 Legislation. What is the basis for that?

9 MARCH 2015

PHASE 2

DR YOUNG: 276?

ADV SIBEKO: Yes.

DR YOUNG: Yes obviously I followed ...[intervenes].

ADV SIBEKO: Microphone.

5 DR YOUNG: Hopefully I followed and hopefully everybody else followed the Shabir Shaik Trial, the corruption trial When was that held, that was round about 2005 era over a long period of time and a fundamental, okay there were three mayor charges. The first one was the corruption and the corruption indictment and guilty finding was made in respect the  
10 first point of corruption with the main evidence being what is called collaterally speaking the encrypted facts which was a document written by an executive based in South African of the company of Thomson-CFS written to head office.

In terms of the judicial finding made by the presiding officer, Justice  
15 Hillary Squires that document was found to be an executive statement and I am not a lawyer but an executive statement has a particular meaning in terms of corruption legislation and particular I believed the law for the Prevention Act and Combating of Corrupt Activity Act 12, 2000.

20 My understanding is that this particular institute for whatever goes around it refers to an executive statement whereby a party to the corrupt act records I think it is either the offer of a bribe or the receiver of the bribe. What I am saying is in fact what I call this document the German Memo is the totemic facsimile is [indistinct] to the French encrypted  
25 facts and it basically means the same thing in terms of bribery. It

records a bribery agreement between in this case an official of government between a supplier who offered a certain amount of money ...[intervenes].

CHAIRPERSON: I am sorry Dr Young. Should you not perhaps leave  
5 the legal interpretation to other people. Let us deal with the facts only and the question on the legal implications thereof will be determined at a later stage. If you do not mind just stick to the facts.

DR YOUNG: That is fair enough but I think I was asked a question when executive statement meant and means and the context. I think  
10 mine was a fair response to that question.

ADV SIBEKO: Chair will this be a convenient time to take the adjournment.

CHAIRPERSON: I thought that Dr Young said he can sit until the following day [laughing] if you say you want to adjourn now maybe we  
15 will do that and then we will start tomorrow morning at 09:00.

**COMMISSION ADJOURNS**